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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION HELD ON MONDAY 23RD
MAY, 2011 AT KIBUK CATHOLIC CHURCH – KAPSOKWONY,
MT. ELGON**

PRESENT

Tom Ojienda	-	The Presiding Chair
Margaret Shava	-	Commissioner
Berhanu Dinka	-	Commissioner
Gertrude Chawatama	-	Commissioner
Ahmed Farah	-	Commissioner

(The Commission commenced at 10.15 a.m.)

(The National Anthem was sung)

(Opening Prayers)

The Presiding Chair (Commissioner Ojienda): I want to take this opportunity to welcome everyone to the proceedings of the Truth, Justice and Reconciliation Commission (TJRC) in Mt. Elgon. We will be here this week and we will hear from witnesses who have recorded their statements with us and we have already notified them.

I just want to give highlights on the procedures of this Commission so that all of you can understand what is expected of you. Once we start the procedure that guides what we do is well set out. We expect all of you to be quiet and to follow the proceedings without interfering. When witnesses are called to testify, they will be led by the leader of evidence. After that, the leader of evidence may require them to clarify a few questions after which the Commissioners may also ask the witnesses to clarify a number of issues which may arise in the course of their testimonies. At the end of that, the witness will be led back to the seat. We expect all of you to show maximum respect to the witnesses whether you agree with them or not. Please, maintain silence and respect at all times. We will continue with this throughout the day and throughout the proceedings and as much as possible, we will ensure that people from every part of this region are able to testify because in the end this Commission will make recommendations which shall be implemented by the Government. This hearing, therefore, presents an opportunity for the people of Mt. Elgon to honestly engage and speak to the Commission with a view to ensuring that those injustices that have informed part of why we are here are resolved so that communities in this region are able to live in peace.

Finally, this Commission exists to reconcile the people of this country. As everyone testifies before this Commission, we expect the truth to emerge, we expect justice to find place, and in the end we expect reconciliation, healing and in the long term, national unity for this Republic.

What is the truth? Truth refers to the process that we shall engage in to ensure that we are able to record historical injustices through the memoranda that shall be presented here, through hearings and through what individuals will say. We know that injustices have occurred in this region. We will therefore look at instances of torture, rape, extra-judicial killings, forced evictions, abductions and economic crimes as the law provides. We hope that out of that, justice will arise out of our recommendations. When justice is done, then peace will prevail so that those who have been victims of injustices are able to be restored, reconciled with their neighbours and communities that have been injured are also able to be restored to their previous status. We talk about reconciliation because we hope that this process will restore and make people to reconnect and eventually heal.

Finally, through this process when we attain peace in Mt. Elgon, then we know that we will be attaining peace for the country known as Kenya. Before I proceed, I want to recognize the fact that the Commission has had to grapple with the choice of Kapsokwony as the place for holding these hearings. We know what you desire. You would have wanted us to sit in Kopsiro, Cheptais and even Kaptama, but we also recognize the question of logistics involved in preparing the hearings. As you can see, it has taken a lot of work to be able to be here this morning. I will ask you to bear with us and as much as possible to embrace the spirit of understanding and reconciliation and to speak honestly to all of us because eventually this Commission would want to see all the people in Kopsiro, Cheptais, Kapsokwony and Kaptama living in peace.

Let me just mention that we also understand the diversity of the people who live in these divisions and where you have come from. Before we formally start, let me introduce the Commissioners in this panel.

(The Presiding Chair (Commissioner Ojienda) introduced himself and other Commissioners)

I want to ask those who will start to present their memoranda and ensure that you point to the issues so that the public and the Commissioners can clearly listen and hear those issues. That will enable you to give other people time as well to present their memorandum. This is because we are starting at 10.00 a.m. when we should have started at 9.00 a.m. We value those who will present their memorandum because they lay a foundation for the individual speakers. I want to ask if any of my colleagues has anything to add before we listen to the first witness.

I would like to inform anybody who is here and has a phone to switch it off and please do not take photographs while witnesses are testifying. You can do so at the beginning and at the end of the proceedings. I would like to call upon the leader of evidence to call the first witness.

(Mr. Eliud Kae took the oath)

Mr. Tom Chavangi: Hon. Commissioners, the witness before you will be very brief. He will take about five minutes. He is an elder of the Sabaot and he is going to introduce the main elder who is going to bring out the issues of the Sabaot.

Mzee Kae, for the purpose of the record, kindly repeat your names to the Commissioners.

Mr. Eliud Kae: My name is Mr. Eliud Kae and I am 62 years old. I was born in Trans Nzoia near Kapchonge Police Station in a farm called Kampuni. In 1952, my father and other local people were removed by the white settlers. My father had over 100 head of cattle. So, we moved and settled near Bungoma Town. That is where I stayed and grew from 1952 to 1963. During that period our neighbours were Bukusu. When I went to school, I was personally forced to change my name. My name was Eliud Ngachi by my neighbours forced me to call myself Eliud Sifuria because they had named my father Sifuria. This is something that was taking place at that time to our people.

In 1963, there were clashes between Bukus and Sabaot. We were forced out of that land which my father had bought. So, we moved to Cheptais where I am residing now. In our memorandum we have separated it in several parts. One part will deal with the period when the Europeans came to 1963 and part two will cover between 1963 and 2006. Part three will cover 2007 January up to now. There are elders like me who are going to present these matters in details. There is Mr. Wilberforce Kisiero who is our leading elder. There is also Mr. Patrick Ngaina, Mr. Ben Chesebe, Mr. Ben Letebo, Mr. Butela Naibei and Mr. Johnstone Takur. Each one of them knows which section they are going to take.

Commissioners, please allow me to hand over to Mr. Wilberforce Kisiero to start his presentation. Thank you.

(Mr. Wilberforce Kisiero took the oath)

Mr. Tom Chavangi: Mr. Kisiero, for the record kindly tell the Commissioners your name.

Mr. Wilberforce Kisiero: My name is Mr. Wilberforce Kisiero former Member of Parliament, Mt. Elgon Constituency from 1979 to 1997. Currently, I am a farmer in Trans Nzoia, Saboti Division.

Mr. Tom Chavangi: Mr. Kisiero, you have been chosen by your fellow elders to present a memorandum which touches on their issues. The memorandum is divided into three parts. This Commission wants to hear from you in a very detailed manner and also in a very brief way so that everyone can understand what you are talking about. In your memorandum, kindly give the Commissioners a historical background of Mt. Elgon.

Mr. Wilberforce Kisiero: Mr. Presiding Chair, Sir, currently, Mt. Elgon comprises the districts of Cheptais and Kapsokwony. Historically, this area is inhabited mainly by the

Sabaot community. The Sabaot community is of the Kalenjin Group. They are the same group of people who moved from Egypt to this mountain while their friends like the Nandis and Kipsigis left this area but the Sabaot decided to remain here. It may be confusing when you mention the name “Sabaot”. Sabaot comprises of sub-clans like Elgoni, Elgony, Bok or Walagu, Somek, Bong’omek, Sebei or Elgon Maasai and Ndorobo. These sub-clans are scattered all over Mt. Elgon.

I can summarize the problems in Mt. Elgon in a very short manner. It is based on the arrival of the colonial government. Before that, the Sabaot were able to look after themselves successfully. Unfortunately, when the Europeans came, they removed them from their ancestral land which is currently known as Trans Nzoia and Bungoma including Mt. Elgon itself. The Europeans removed Sabaot because they wanted to use their land to settle their own Europeans who had come from the World War I. So, they thought that the Sabaot should make way. To do that, they physically removed them. They were taken to Uganda as shown in our records, some of which I have given you. The Europeans considered that these Sabaot are just a small tribe and should not be left to occupy Trans Nzoia. So, they enumerated them, counted their cows, sheep and goats and asked the Ugandan Government to take them to Karamoja. Very few were left and were forced to be squatters to provide labour for the white man but the Sabaot were proud people. They were also rich with livestock and vast tracks of land.

They could not countenance becoming labourers of poor Europeans. Therefore, they were eventually removed. Some were removed and went into the forest. In 1932 the British colony brought a land commission which, among other things, dealt with how to get rid of the Sabaot. After some deliberations of about two years, they decided that they will give the Sabaot some compensation. That is for those who remained in the farms. They said that they would give them 2000 pounds. They said that to disburse such an amount to a small nomadic tribe is of no consequence. They stated that after all they are not many and that it was a dying tribe. All the same, 2000 pounds was not given out as compensation. Another way of compensating them was to give them Chepkitale, but they could not do that because the Sabaot were already living there. So, they told the British Government that they would give Kshs80,000 to the Sabaot in Chepkitale but since it was already occupied under Arap Sang Gula, it was just a lie because you cannot give someone his own thing. There are those who were pushed to Uganda and Tanzania and are still there. Some of them have moved to the eastern part of Congo. Some were moved to Pokot and Luo land. So, the Sabaot suffered immensely. In that process, they lost their culture, many died, they suffered a lot of humiliation because they were transported and deprived of their land and resources.

To cut the long story short, when independence came, the Kenyan delegates to Lancaster House did not bother to remember that Sabaots had been displaced from their land and they needed to go back. They were illegally exiled by the colonial machinations. Some people decided to come back but when they came, they found that there was no land. The Lancaster House Constitution stated very clearly that every Kenyan has a right to live whenever he wanted to live. Whoever wanted to buy land, it was a question of willing buyer, willing seller. So, our leaders who went to the Lancaster House decided to

abandon the Sabaot. There were Sabaot who had been removed from their land by force, there are those who had remained in the farm, some had gone to the forest and some had been pushed to Western Province under Luhya chiefs. Therefore, the Sabaot have not been compensated at all.

That led to shortage of land. Having been pushed to Western Province, including Kitale, where the Ndorobo were residing, there was a lot of pressure for land. In addition to that, having been put under Chiefs Mumia and Murunga, they went through a lot of oppression. Their land was taken away. Most of Cheptais areas, including Wamono and Changara, were taken away. In that process, the Sabaots, who were living in Bungoma – the Bongomek – got completely “swallowed” by the Bukusu. It was not the fault of the Bukusu to swallow them, but the Luhya leaders had been put there by the British Government.

They were a minority and, therefore, their rights were completely trampled upon to the extent that they lost their culture and their language. The fact was that the Sabaot lands in Western Province were progressively taken away. During the Second World War, the Sabaots were taken by force to fight. In that process, their land was taken away. They were forced to work as labourers for the Murunga and Mumias Kingdoms. The Chief’s Order stated clearly during those days that only Sabaots could dig the roads. Other tribes were not forced to dig roads. That made the Sabaots to run away and, therefore, lose more land.

Therefore, the Sabaot have been living under a lot of humiliation. They have been marginalised and persecuted. They were prosecuted and dispersed. Their land rights and human rights were totally removed. They live like an abandoned community because even after independence, the Government did very little to protect them from these historical injustices. There were those who were living in Chepkitala on the 80 acres of land that were purported to have been donated to them by the British Government. Chepkitala is virtually useless, except for keeping cattle. At that time, the Forest Officer in Nakuru stated clearly that for the purposes of forest and so on, Chepkitala was useless. So, it was said that Sabaots should be given Chepkitala.

In May, 1934, the British Parliament adopted the Report of the Carter Land Commission. As the British Parliament accepted the recommendations of that Commission, they should at least have remembered to consider the welfare of the people who were pushed to Chepkitala because the land was useless. I have stated that land is a major problem which was created by the greedy administration of the United Kingdom. The Sabaots have had major problems, even amongst themselves, because they fight over land. You cannot blame them. The real culprit should have been the British Government and the Kenya Government, who should have remembered to return the land to them. One can give Kenyatta’s Government some credit because at around 1968-1970, it agreed to move the people who were living in Chepkitala to an alternative place by hiving off part of the forest in Chebyuk. So, the Government started moving Sabaot from Chepkitala in 1970. For this Commission’s information, that exercise has not been completed. If you consider

1934, when those people were supposed to be in Chepkitale, up to now, you will realise that 77 years have lapsed but the exercise has not yet been completed.

I understand that at the moment, some settlement is going on, but it goes on in staccato. You find surveyors working one day and on the next day, they stop working because there is no money. So, those people are being settled at the pleasure of civil servants. Nobody bothers. After the Kenyatta Government decided to resettle these people, they should have been given consideration. The problem of Chebyuk produced the most massive war in Mount Elgon. The Sabaot Land Defence Force (SLDF) was born out of Government procrastination in implementing that settlement scheme. How can you start settling people in 1970 and fail to complete that exercise to date? We are expected to be patriotic Kenyans and sing the National Anthem. You cannot! It is the bitter reality. It is even more saddening because our people have killed one another just because of land.

Over the years, the Sabaot have had a serious quarrel with the Bukusu. It is not that the Sabaot people hate the Bukusu. It is not the fault of the Bukusu. It was the fault of the colonial government, which forced the Sabaot to be under the Bukusu. Up to now, the Sabaot have lost their land and there is the political aspect – the question of representation. When we used to have one county council, the interests of the Sabaots were not addressed. For a long time, the Sabaot people fought to have their own district. It was only in 1993 that they got their own district. Thereafter, the Sabaots wanted to be put under the Rift Valley Province because culturally, they are not Bantu. They are part of the Kalenjin community.

The British government had cut them off and put them in the Western Province, while the rest of the Kalenjin community was in the Rift Valley. Despite many requests made by the Sabaot people right from independence to be put in Rift Valley Province, those requests have been ignored, because someone wanted us to continue living in a place where we get oppressed. It is our hope that the promulgation of the new Constitution will help us. I participated in the initial stages of the constitutional review process. The Bomas Draft I had put Mount Elgon under Rift Valley Province. We were to be part of the North Rift Valley region. However, to our surprise and shock, when our MPs went to Naivasha, they decided to reverse that arrangement and put Mount Elgon under Bungoma. Just imagine the shock arising from that decision. If that is not inhuman, I do not know what to call it. Mount Elgon was put back where it was before we got a district in 1993. We now have no option except to be here. For the time being, we should do our best to establish friendship, but this is continuous oppression of the Sabaots.

Since 1963, the whole of this area has had only one constituency. We have terrible geographical problems. There are hills, valleys, rivers, depressions, mountains, *et cetera*. Moving from the border with Trans Nzoia to Chepkube is a nightmare. Most constituencies in Kenya have been split into at least two. We have made a lot of requests for the splitting of Mount Elgon Constituency into two, but nobody has listened to us. We feel that we are really forgotten people. We do not know whether those of us who have been exiled are still Kenyans or foreigners. Those who were wise enough made sure that they had one wife in Uganda, one in Kenya and one in Tanzania. So, they commute between the three countries. In a year, they stay for a few months in each of the three

countries. They cannot come back because there is no land. The big boys in Government made sure that they gave land to their fellow big boys. They gave them ADC land and other Government land. Nobody bothers about those people who were forced out of their country.

I must add a few things, at least, in favour of what former President Moi did. He established a small settlement scheme of about 1,000 acres, or so at Kitalale, but that scheme was for everybody. Currently, there is the question of IDPs. The Government has been very fast in trying to address problems of people from certain areas. They have gone to the extent of bringing them to Trans Nzoia but nobody cares that there already exists IDPs in Mount Elgon. Nobody remembers that those IDPs were pushed out of Mount Elgon. Nobody remembers that Mount Elgon “burnt” through the SLDF and other previous wars because of problems of land. We have IDPs at Teldet, Trans Nzoia, and in a few other places. They are watching other IDPs brought from far away being settled just across the ridges. Nobody thinks of the Sabaot. Where is our God?

Mr. Presiding Chair, Sir, we have a lot of faith in your Commission. We cannot say everything here, but we believe that you will try to concoct some solution of some sort. If we are left the way we are now, I cannot rule out future problems amongst the Sabato people themselves, between the Sabaot and the Bukusu and between the Sabaot and other people. This is because when a child is brought up in an environment of hostility, where he is totally neglected and despised, and where nobody listens to him, that child tends to cultivate some behaviour which may not be good. We believe that Kenya is big enough. Let us have a big heart and accommodate this small community. We have now been returned to Bungoma County. We do not know how many wards will be created in Mount Elgon for Sabaot representatives to sit in the County Assembly. I can see a problem.

I can see a problem because the people of Bungoma will want to take the Senate seat, the women representation seats in Parliament, the Governorship, the Deputy Governorship, the Speaker of the County Assembly, *et cetera*. They will want to take everything. Politically, they have a right to do so because their numbers dictate. The Sabaots have no numbers because they were dispersed to all over the four corners of the earth. So, they cannot raise the numbers. They will depend on the mercy of their brother because that is how fate has no place for them. However, we hope that someone somewhere will raise the flag and say: “Save these people”.

Mr. Presiding Chair, Sir, I can see that I have taken a lot of time. Probably, my colleagues want to add one or two things to what I have said. I am ready to answer any question. We have all the information on how we have been mistreated since time immemorial. Sometimes we wish we could go back to the old days when we would stick spears on our backs. It was better because we were able to defend ourselves. Now we cannot. We have been totally weakened. God save us! I pray for this Commission to succeed in its work.

The Presiding Chair (Commissioner Ojienda): Thank you, Mr. Kisiero for that detailed presentation on the issues relating to Mount Elgon, right from the time before and after independence.

Yes, Leader of Evidence!

Mr. Tom Chavangi: Mr. Presiding Chair, Sir, I need your guidance. Mr. Wilberforce Kisiero has come with several elders, who would want to pitch in, probably, some of the issues that he has not articulated. Your guidance is in the form of questions. Do we ask Mr. Wilberforce Kisiero questions then we invite the other elders, or do we allow the elders to speak and ask questions later?

The Presiding Chair (Commissioner Ojienda): Let us finish with Mr. Kisiero. Let us ask him questions so that when the other witnesses come to testify, they will be doing so on issues that will not have been covered by Mr. Kisiero. Maybe, in the course of answering questions, he will cover some of the areas the elders would want to address themselves to.

Mr. Tom Chavangi: Hon. Wilberforce Kisiero, I will ask you a few questions and then I will pass you over to the Commissioners, who will also want to clarify a few things from you.

In your presentation, which shows clearly immense violations in terms of land, you say that you were pushed to Western Province. Which province did you belong to at first?

Mr. Wilberforce Kisiero: Before 1921, there used to be a district called “Elgon District”, whose headquarters was in Mumias. So, the DC sat in Mumias but he governed an expansive area stretching up to Naivasha. Trans Nzoia was part of that district. The boundaries were subsequently redrawn, and we were cut-off to Western Province after 1921.

Mr. Tom Chavangi: At some point you also mentioned that the Bukusu people actually assimilated the Sabaots. Do you not think that is a good thing, in terms of reconciliation, which brought the two communities together?

Mr. Wilberforce Kisiero: It depends on what you mean by “assimilation”. I consider it totally unfair to completely obliterate the identity of one tribe by converting it into another tribe and saying it is good. To me, that is totally unacceptable. Kenya is made up of tribes. There is no reason as to why the Sabaots should be assimilated and lose their identity. We are proud to possess our identity.

Mr. Tom Chavangi: Mr. Wilberforce Kisiero, you also mentioned loss of land. You said that large tracts of land were taken away from the Sabaot people by the successive Governments and given to other people. In your approximation, how much land do you think was lost by the Sabaot people?

Mr. Wilberforce Kisiero: The Sabaot people lost the whole of Trans Nzoia District. It must be hundreds or thousands of square miles or acres. They lost the whole of Bungoma

District. You cannot quantify it now because it is a vast area. So, I cannot give you the size in terms of the actual acreage.

Mr. Tom Chavangi: Just for the understanding of the Commission, where is Chepkitale?

Mr. Wilberforce Kisiero: Chepkitale is to the north of this place. It is about 20 miles away. The Ndorobo are still there. They were supposed to be moved but as I told you, the exercise is not yet complete. Even if it is complete, they were living on 80,000 acres of land. Chebyuk is about 8,000 acres, and it did not settle only the Ndorobo, it also settled other people from the lower area. So, it is totally unfair for those fellows to come and occupy 2.5-acre plots when they previously occupied a vast land area in Chepkitale. It is up there. You can visit the place.

Mr. Tom Chavangi: Thank you, Mr. Kisiero. The Commissioners might consider that visit. You served in the Government from 1979 to 1997. The process of Chebyuk Settlement Scheme started in 1970, and that process has not been completed to date. While in Government, and as an elder of the Sabaot people, were these issues articulated by you?

Mr. Wilberforce Kisiero: Mr. Presiding Chair, Sir, I did my best during my time in Parliament, to ensure that the exercise was completed. In 1989, PC Lekoolol, came and tried to complete the exercise. While trying to so, it was thought that I was one of the handicaps because I come from the lower area. The people in Chepkitale are in the upper area. So, one day, I was sacked from the position of Assistant Minister. I think it was part of an exercise to establish whether I was the one who was contributing to the delay.

I was quite happy to be out of Government. I was told not to visit Chebyuk until the exercise was completed. The exercise was completed. I was reinstated as an Assistant Minister but in actual fact, many problems remained unresolved. The exercise is still going on. So, I did my best while in Parliament. When hon. Kimkung became the area Member of Parliament, he also did his best. Hon. Serut came and did his best. There is now another MP, who, I am sure, is doing his best. It is just a matter of the Government making up its mind and completing the work.

Mr. Tom Chavangi: Hon. Kisiero, I am sure you are aware that the new Constitution has created 47 counties. Some of the people who have been put in those counties never used to live like that previously, but they have now been put together within the same counties, meaning that they have been hived from certain areas to live with others in a county. That is a new thing to them. You being in Bungoma County, do you think that was progressive, in terms of the Sabaot people, or the feeling is that you still want to go to the Rift Valley and be put in a county within the Rift Valley?

Mr. Wilberforce Kisiero: Mr. Presiding Chair, Sir, I think I understand the Constitution, and in particular the genesis of the 47 counties. My understanding is that there is an area which has been forced into another county. It is true that Mount Elgon District is now in Western Province, but the Bomas Draft, which was rejected at the referendum, had given

Mount Elgon its own county. So, there is no area which has been forced into another county. Maybe, counties were created within certain areas, taking into account the historical perspectives. We are not Luhya. What are we doing here? The other fellows are with their own people. So, I still feel that it is totally wrong to force Mount Elgon District to remain in Bungoma or Western Province.

Mr. Tom Chavangi: Thank you, Mr. Wilberforce, for the clarification. The Commission wants to get further clarifications from you. I have nothing else for you.

Hon. Commissioners, I hand over the witness to you for further questions.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Leader of Evidence. Mr. Kisiero, once again, I want to thank you for your testimony. There are several highlights in your testimony. I am sure that the Commissioners want you to clarify a number of issues you have raised. At this point, I want to ask the Commissioners, starting with Commissioner Berhanu Dinka, if they have any questions to ask you.

Commissioner Dinka: Thank you, hon. Kisiero. You were a Member of Parliament from the region between 1979 and 1997. I assume that you must have been elected by non-Sabaot people as well at that time. I am not sure what the population of the Sabaot people in one concentrated area is right now. They may have spread all over the country and the region, but do you not think that historically, this process of a group of people being assimilated into other groups of people has been taking place throughout history? Today, if you look for a Spartan, you will find none in Greece. If you look for a Norman in France, you will not find any. They have all been assimilated. They have lost their cultures and dialects. Even if you look at the ancient history of this continent itself, you will find that this kind of assimilation and integration has been taking place. Are we not suggesting some kind of activity or action on the part of Government or society, contrary to the historical current that takes place? I just want your comment on this one.

Finally, I was not very sure about your recommendations as to what should be done at the end of the whole exercise. So, if you give me your comment on the first one and then, perhaps, elaborate on your recommendations, I will be very grateful.

Mr. Wilberforce Kisiero: Thank you, Mr. Presiding Chair, Sir. It is true that the process of assimilation has been going on right from creation. The Sabaot and other people moved from Egypt, down the River Nile, through Ethiopia, and so on. In the course of that movement, there must have been assimilation. I am not at all saying that the Sabaot people do not want other tribes. No! I should not be mistaken. What I am saying is that even the Constitution of Kenya appreciates a people's culture and identity, which should be respected. We are one, as a country, but within the country, there are pockets of various groups of people, tribes and so on.

It would not be acceptable, in my view, for one tribe to "swallow" another one openly. We cannot stop small assimilations slowly. You know the Luo live with the Luhyas on

the borders and I am sure that there is some form of assimilation. But when a policy is created, which will lead to the extinction of a group, I consider it unfair. As a matter of fact, at one time, the Europeans who were appearing in the Commission in 1932, after dispersing the Sabaots, one of the commissioners asked the local European: "Where are these people?" He said that when they crossed the border, they automatically came under the Sebei chief. They would always be going backwards and forward and intermarrying, *et cetera*. That means that the colonial government as it were, decided that, that community should be thrown into a situation where they may be assimilated and disappear. But I am sure that even in Ethiopia, there would be one tribe here and another tribe there. They form one Ethiopian tribe and that is good. Therefore, I think that the Sabaot's identity should remain protected as Sabaots. I repeat that we have no hatred against any other tribe, but we want a fair approach to the issue of neighbourliness.

Commissioners, as to what else should be done, first and foremost, the Government should consider settling the Sabaots in the remaining Government farms which are in Trans Nzoia, which used to be their ancestral land. The Sabaots should be settled - not all - just as a token of appreciation, at least, to correct the past injustices. Right now, there is the question of Internally Displaced Persons (IDPs). The Sabaot IDPs, together with those who could not be settled in Chebyuk Scheme - about 5,000 or more - should be considered for settlement in Trans Nzoia Government farms.

Commissioners, we hope that when Parliament sits to enact laws covering various aspects of the Constitution touching on minorities and helping to bring up areas that are backward, the law should be fair and specific to the minorities, including all the Sabaots and others, so that it can address those issues. When they discuss the question of land, I think it is Article 67(2)(e), when they form the Land Commission, they should ensure that the Commissioners are people from the minorities and those who lost their land to the Colonial Government. We hope that, that Commission will be able to enact laws in such a manner that it will protect minorities and those who lost their land. There are many areas in the Constitution where Parliament will soon be enacting laws to give it effect. So, I hope that whatever they will be doing, they will take into account the position of the Sabaots.

Commissioner Dinka: Thank you very much, Bw. Kisiero. I do not have any other question.

Commissioner Chawatama: Hon. Kisiero, thank you very much for taking time to come and testify before us. I come from a very small country called Zambia, with a population of 13 million people. We grew up saying "One Zambia, One Nation". We also grew up learning from one another's culture and practices. I would like you to help me understand, and in helping me understand, what steps have the Sabaots taken to preserve their culture and how, in our recommendations, would you like us to address the issue of respect of identity?

Mr. Wilberforce Kisiero: Thank you Chair. The Sabaots are very keen to ensure that their culture is preserved and protected. As I said earlier, when the Colonial Government

dispersed the Sabaots from their lands, they were taken to foreign lands where they married foreign wives and borrowed foreign cultures and traditions. By the time some of them came back, they were not Sabaots or Ugandans or Tanzanians, but some kind of polyglot. We do not know what they are but they have come to our midst, and this was all the fault of the Colonial Government. We are doing our best to reconstruct our culture and doing away with those cultures that we consider not more than enough. But cultures that conform with modern civilization and at the same time, protecting our interests--- We still have even the *laibons* or prophets. We still respect them. So, we are in the forefront to ensure that our culture remains protected, so long as it will contribute to more development. I think I have answered also on identity.

Commissioner Chawatama: Thank you very much Mr. Kisiero.

Commissioner Farah: Mr. Kisiero, I also join my other Commissioners in congratulating you for coming forward and testifying before this Commission. My question is: Having represented your community for a very long time, that is, 1979 - 1997, and having reflected on the whole issue, what are your recommendations or solutions to these problems once and for all; considering that there are other issues of your neighbours, like the Bukusus, which you must take into account?

Mr. Wilberforce Kisiero: Mr. Chairman, Sir, in addition to what I had said earlier in respect of making available land for settlement, I would recommend that when Parliament enacts laws on counties and minorities, it should ensure that in a county where there are minorities, some law should be enacted to protect their interests. That way, they will feel that they are represented in the county. This will ensure that we do not just swallow democracy the way it is interpreted. As far as I am concerned, democracy is an ass. Democracy was for the Greeks because they lived in small villages and knew one another. But when you come to a big country like Kenya, with big tribes, small tribes and forgotten tribes, democracy is not the right thing. It is a total ass. So, we have to resort to legislation to protect the interests of the minorities.

Also, the question of constituencies is a painful thing. Whereas some constituencies have been split into three in Kenya from independence, Mt. Elgon has not been split. So, for a Member of Parliament to represent from the Uganda border on the other side to the Uganda Border on this side is a tall order. The Government or whichever commission is going out to recommend constituencies should take their work seriously and give Mt. Elgon an additional constituency.

Commissioner Farah: Thank you very much. Your recommendations are two; one is to make available land for the settlement of the Sabaots and the creation of legislation for the protection of Sabaots as a minority. Let me ask you a second question now to clarify this matter. When you say that the Government should make available land for the settlement of the Sabaots, how much land are you considering or thinking of in acreage or whatever it is? Secondly, when you say that the constituency should be split, we had the Interim Independent Boundaries Commission that came round. Did you recommend how that is to be split?

Mr. Wilberforce Kisiero: Mr. Chairman, Sir, I believe that about 50,000 or more Sabaots are totally landless. If they can give them about two-and-a-half acres per person, that would be the minimum to redress the situation and the landlessness of the Sabaots. Excuse me, what was the other question?

Commissioner Farah: The other question was the splitting of the constituency. How many constituencies did you recommend to the Interim Independent Boundaries Commission for Mt. Elgon to be split into?

Mr. Wilberforce Kisiero: Mr. Chairman, Sir, we recommended for the split of Mt. Elgon into two. That recommendation has been going on for several successive Commissions. I know that some would want it to be split into three, but because I understand how big Kenya is and the needs of Kenyans, splitting it into two would be fair.

Commissioner Farah: A further question on the two questions. Are you talking about 50,000 Sabaots or 50,000 families that are landless? Secondly, when you split Mt. Elgon into two constituencies, are you still considering splitting only the Sabaot area or you will be comfortable with accommodating the other tribes?

Mr. Wilberforce Kisiero: Mr. Chairman, Sir, when we think of splitting the constituency, we do not discriminate anybody who is within our borders. When we say that two constituencies should be created, we take into account some sub-counties which were taken away from Mt. Elgon in 1978. They are Wamono and Changara. They used to be part of Mt. Elgon after a very fierce fight between the Sabaots and Bukusús just before independence. On 31st December, 1963, the then Governor of Kenya formed a Commission called Bukusu/Walagu Commission of Inquiry. That Commission of Inquiry went into the ground in Cheptais area and took evidence from various people and made recommendations. The recommendations included among other things, that Wamono and Changara were part of Mt. Elgon. That was in 1964/1965. After that Commission, those areas were administered from Mt. Elgon. They were reporting here in Kapsokwony, but stealthily and cleverly, someone decided to change and return those two areas to the DO, Sirisia, instead of the DO, Kapsokwony. That is because we had no district at that time in Kapsokwony.

I think that was in 1978. That was considered as oppression because a whole Commission, like your own Commission here, having made a major recommendation and been put into effect, then the same Government changes behind the backs of the people of Mt. Elgon. Up to this moment, it is still outside Mt. Elgon.

To go back, when we talk of Mt. Elgon, those areas are included. The Bongomek is a sub-clan of the Sabaot and live within Bungoma area. Long ago, before the Bukusu came in big numbers, the Bongomek were living there on their own. Slowly, the Bukusu came and lived nicely with them. The Bongomek had a chief called Matete, who was appointed in 1911. That chief continued but by 1927 all the Sabaot chiefs had been removed and

there was only one in Elgon Location. He was called chief Tendet who was appointed in 1929. Since Mr. Matete was overcrowded by the Bukusu in Bungoma, he was left out. The Bongomek have never had a chief although now - and I must give credit to the Bungoma people - there is a chief in Bungoma town who is a Sabaot. We must give credit to that, especially to people like the Late Member of Parliament, Khaoya, who was very conscious of fairness.

There is not much that one can do for the Bongomek, but UNESCO has acknowledged that they are a tribe which is almost disappearing. Their culture and language are almost disappearing. So, UNESCO is trying to do something to protect the Bongomek.

Some of the recommendations that I can make is for God to give our friends, the Bukusu, a soft heart to accommodate their brethren, whether in Bungoma or within the county. They will need a soft heart. The Sabaot will need also to recreate themselves, to understand the situation in which we are. This is because there is nothing much we can do about the county; I know the Constitution quite well. There are those provisions relating to amendments, but those are a tall order. Maybe, they will come when other people are demanding for amendments, and we can come through. So, we will need our people to recreate themselves and have a new heart, but that can happen if there will be fair representation in the County.

Commissioner Farah: You did not answer the other question.

Mr. Wilberforce Kisiero: Which one was that; remind me, please?

Commissioner Farah: The question was: You wanted 50,000---

Mr. Wilberforce Kisiero: I remember. When I said 50,000, I was talking about households/families. You can multiply by a certain number to get an average of, maybe, five children. I did not mention that we still have Sabaots in the diaspora; those who are exiled. They keep coming and going and sometimes they stay. We do not know their numbers, but sure enough, they are entitled to be Kenyans. They should come home. In fact--- Maybe, I will get it later.

Commissioner Farah: While you are looking for that data, let me ask you my final question.

Mr. Wilberforce Kisiero: The Europeans acknowledged that those people are still wandering. It is in their own reports. Some of them are still in the same area while some of them are doing what Arap Kesis was doing; Arap Kesis was their chief in Trans Nzoia. He sometimes goes up the mountain, sometimes to Uganda, then he comes out again and sits on some farm. Wherever he goes, he claims that is it the home of his ancestors. So, they are not only still wandering, but they are also wondering as to why they were mistreated so much.

Commissioner Farah: I have a final question of statistics and reconciliation of figures. We were told that the whole population of Mt. Elgon, as per the last census, is 135,000.

The reason I think that you did not get another constituency is because there is a threshold of a certain population to get a new constituency. But coming back to your 50,000 Sabaots who are landless, I think we need these figures to be reconciled because out of 135,000 people, for 50,000 to be landless does not add up.

Finally, 50,000 landless Sabaots multiply by two- and- a-half acres per person, will come to 150,000 acres. Where do you think this land can be hived from? Be brief, please.

Mr. Wilberforce Kisiero: On the question of population, maybe I forgot to clarify. When I talk about the Sabaots, I include those who are in Trans Nzoia. That is one mistake I made. It includes a huge number in Trans Nzoia which was their original ancestral land. On the question of where the land will be availed, there is plenty of land in Trans Nzoia, under ADC. For many years many, people have been given portions of land, particularly top Government officials. Some were given 50 acres, 100 acres, 200 acres and so on. There is still plenty of land in Trans Nzoia.

Commissioner Farah: Thank you very much. I do not have further questions.

Commissioner Shava: Thank you very much Mr. Kisiero. I am sure that we have been informed by your lucid presentation. You have been in the system for a long time and have told us some things which are not necessarily written in other places. So, we have benefited from your years of experience. The question that I want to ask you relates to the future. You have talked a lot about the past, and as you can see behind you, our motto reads “*tusirudie tena zile dhuluma.*” But going forward, we need to do a new thing in Kenya. You have made reference to the Constitution which you state that you know very well. So, you know the aspirations of the Kenyan people are captured in that very fundamental document.

You have focused your presentation on what the British Government did wrong and also what the post-Independence Kenyan Government did wrong, and a lot of things have come to light. Your views on democracy were very interesting as well. I think I want to agree with you that you cannot take a ‘cut and paste’ approach towards democracy. What works at one place at one time does not necessarily work in another. But at the same time, the fundamentals of whatever model of democracy you use, will always include freedom to which you have referred; citizenship and equality, which I think you also talked about at length. Now, bearing all these things in mind and looking into the future, we know that one of the reasons this Commission was formed was because of the position which we found ourselves in as a country at the end of 2007 and the beginning of 2008. We are now facing another election in this country and tensions have already begun to rise. This is an area which, as you said and classified, as a very big war because of Government inaction. You, as a politician of long standing and leader of this area; what are three key messages that you would give to politicians, because we also have to face the fact that politicians have been the cause of a lot of our problems in this country? What are the three key messages that you would have for politicians, not just from here, but all around the country as we go into this period and knowing what it is that we aspire for in Kenya?

Mr. Wilberforce Kisiero: Thank you very much for your lucid explanation. We all want to recreate Kenya. Kenya can accommodate all of us very well. As you mentioned, the problem lies in politicians. Kenyans are very peaceful and good people. If you recall how elections were conducted in 2002, it was above all the tribal considerations. So, politicians should have in their hearts and approach, the interest of Kenya as a nation. To do that, they have to shed tribal connotations and interests. Many of our politicians spend time trying to incite one tribe against another. That will be our undoing. Let them preach reconciliation. But before they preach reconciliation, whatever they do, there should be justice. There should be fairness, equity and above all, they should not burn our country. It is very easy to incite and destroy a country, but it is very difficult to bring back peace. I think that we should remain Kenyans. Politicians must preach “Kenyanism”. With that, Kenya will be a good place to live.

The Presiding Chair (Commissioner Ojienda): Thank you hon. Kisiero. I noticed that twice or thrice, you have referred to me as “Mr. Speaker”, which means that you are missing Parliament. But you have also spoken very well. You must have been a very good debater in your time. I have a few straight and frank questions to ask you and I want frank answers from you.

First of all, by way of starting, what is your source of information on the displacements of the Sabaots to the Congo, Tanzania and Uganda? Please, if you give us a source, you will be helping the Commission to understand better.

Mr. Wilberforce Kisiero: Thank you, Mr. Presiding Chair. We have many sources including old journals which we got from Uganda. I was a student in Makerere when our President was a lecturer. We also got them in our archives in Nairobi. You can get some from Britain. I have got a lot of information. I think that I listed some of them somewhere and I am ready to get you some of those writers. I had given your colleague my papers. There are people like Hansford and Prof. Were. There are also the early sociologists and anthropologists who wrote a lot about the Sabaots, the Kalenjin and the Sebeis in 1911/1912. We have them.

The Presiding Chair (Commissioner Ojienda): Thank you very much. I think that we will be able to get some of the information from you. My second question is: When you say that the Sabaots are marginalized, perhaps, you should have told the Commission in what specific areas, so that we can move to specific recommendations, just briefly.

Mr. Wilberforce Kisiero: They are marginalized in representation. I have already mentioned Parliament. They are also marginalized in the distribution of financial resources. For a long time, we have had no roads. They have just started one from--- They are also marginalized when their children go for selection to the Army, GSU, Police, teaching and so on.

If they employ 100 recruits, they might take one Sabaot. There were times when Sabaots would go to Bungoma for recruitment; some of them would be pulled and chased away

from the queue. Probably, they looked weird. They are never employed. When we were given our own district, there was some fairness which we hope will continue.

The Sabaots are marginalized because whereas other tribes were given land after the colonial Government left, we were left out. The Government created schemes for settlement and settled people from other communities. They hived off part of Trans Nzoia into a huge settlement scheme. No Sabaot was taken. They were told: "You wait for your scheme. It will come on the upper side of Trans Nzoia, that is the Sabaot area. Foolishly enough, they agreed to wait. They are still waiting. Nothing has been given to them. This happened and yet you will see that other people were given those schemes.

We have even been marginalized when it comes to Government appointments. There has been no Sabaot Cabinet Minister. I do not think there will be one so long as their numbers are small. We are marginalized in many fields.

The Presiding Chair (Commissioner Ojienda): My next question is on Government policy. You served as an MP for 22 years. That is a long time. In your view, is there any Government policy that escalated or contributed to the land problems in Mt. Elgon? You have referred to the schemes. Was there unfair allocation of land which you know in those schemes?

Mr. Wilberforce Kisiero: As I mentioned, the fact that we were excluded from being settled in that particular scheme shows that there was unfair allocation of land. In this district, I still consider that the Government mishandled the settlement of Chebyuk. They mishandled it in that it took ages to make decisions. Their settlement policy was not fair to us. They did not decide that now we will move the people from Chepkitale to Chebyuk. They moved these people into a forest land. The poor fellows had to struggle cutting trees and there was no survey. They could not survey the land because it was inside a forest. Because of that poor approach, the Government failed to complete the settlement in time. In the process, other people came in. They were either sold land which had not been surveyed or they acquired land because of their positions in Chebyuk. So, at the end when the Government was now finalizing the whole thing, there was a total mix-up and confusion.

It has brought enmity between the people from Chepkitale and those who came from the lower area. It was the Government's fault. They should have carried out the exercise quickly and settled those people from Chepkitale before the whole thing became a mess. So, that is where the Government failed.

This was not a Government policy. However, when some people in the Government decided that there were people or civil servants who were politically-correct and that they should be allocated land, they messed up the settlement policy. I am not envying those who were given land. I am only saying that it was the decision of the Government to give land to those who are in power instead of giving to those who were landless.

They should have looked at the poor man first; the landless. That was not a Government policy, but a decision made by the big people. That decision was unfair and it did not take into consideration the interests of the poor.

The Presiding Chair (Commissioner Ojienda): You seem to blame both the Moi Government and the Kenyatta Government? Remember you had said earlier on that the Kenyatta Government started the policy of resettlement in 1970 and that has been going on. As you answer that question, I want you to just answer a question that is, probably, a bit difficult. Why do you think that the former President Moi thought you were part of the problem in the Chebyuk scheme?

Mr. Wilberforce Kisiero: If I may specifically deal with the Chebyuk issue vis-a-viz the period that Moi was in power, I would not know why it took such a long time to settle that issue, other than that, probably, the civil servants or the Treasury did not make money available. He had the intention to do so. He was willing, but his lieutenants on the ground; that is the provincial administration was, probably, handicapped in sourcing funds to carry out the exercise. Even at this moment, I am told surveyors, probably, have run out of money. They might run out of money for six months or one year. So, personally, I will not blame the President, but the system might have contributed to that.

The Presiding Chair (Commissioner Ojienda): Which regime contributed more to the problem? Was it the Moi regime or the Kenyatta regime?

Mr. Wilberforce Kisiero: It was the Moi regime because Kenyatta left us in 1978. During the Moi regime, they continued cutting trees, so that survey could be carried out. So, this happened more during the Moi regime than Kenyatta days. But in both cases, it was the civil servants who caused problems.

The Presiding Chair (Commissioner Ojienda): My last question, and I want you to be very honest in giving me an answer to this one just like you have been in the previous ones. Do you think you, as a former Assistant Minister and the MP for 22 years and your successors, hon. Kimkung, hon. Serut, hon. Bomet and even the current sitting MP, hon. Fred Kaponi, are completely blameless in this issue of the Chebyuk scheme?

Mr. Wilberforce Kisiero: For a human being to claim that he is blameless is not quite true. In human nature, you may have messed up or you may have caused some problems somewhere which you may not know. However, during those days, an Assistant Minister and an MP was virtually nothing in front of the Government. The man who was powerful was the President, the Permanent Secretary in the Office of the President, the Provincial Administration. They could do and decide anything. An Assistant Minister was a mere cog in the wheel. So, we cannot take much blame. It was during the regime of *baba na mama*. You could not do much. As I told you earlier, I got sacked and was told to keep off which I did. But the problem has never been solved since 1989. So, I was not to blame for the mess in that scheme.

The Presiding Chair (Commissioner Ojienda): Thank you, hon. Kisiero. That was very helpful. I, once more, want to join my fellow Commissioners in thanking you for turning up and for speaking honestly to this Commission.

Mr. Tom Chavangi: Thank you, Commissioners. We would like to admit another elder by the name of Patrick.

The Presiding Chair (Commissioner Ojienda): Leader of Evidence, hon. Wilberforce Kisiero has spoken in detail on the issues touching on the Sabaot Community. In the interest of inclusivity and reconciliation, we wonder if there is another witness from a different community to speak to the Commissioners then the other witnesses can just add on to what he has left out.

Mr. Tom Chavangi: Hon. Chair, that is right. I want you to guide me on how they will add on. Will they add on in terms of writing or in terms of presenting before the Commission because we had made an agreement with them?

The Presiding Chair (Commissioner Ojienda): The Commissioners feel that the witnesses speaking after Mr. Kisiero should focus on the recommendations and just to limit themselves to maybe five minutes on the issues because I think Mr. Kisiero has been extremely helpful. Before they start, I also want to recognize certain members who have joined us, the DC, Mr. Tororei from the Kenya National Commission on Human Rights; welcome to the session. Leader of Evidence, you may proceed.

(Mr. Patrick Kisembe Ngaina took the oath)

Mr. Tom Chavangi: Hon. Commissioners, we have agreed with the witness that he will present on recommendations only since hon. Wilberforce Kisiero has brought out the issues of the Sabaot in its entirety. For the record, Mr. Ngaina, kindly, repeat your name.

Mr. Patrick Kisembe Ngaina: My name is Patrick Kisembe Ngaina.

Mr. Tom Chavangi: What do you do at the moment and what role do you play as a Sabaot elder?

Mr. Patrick Kisembe Ngaina: At the moment, I am a farmer. I am the vice-chairman of the council of Sabaot elders. Formerly, I was an education officer. I have worked with the colonial Government and with the current Government. I am 77 years old. I was among the first teachers in the Sabaot Community. I want to tell the Commission that it was not easy for us to get an education at that time. I got my education at Chebwai SDA in Kabras before going to a Teachers Training College.

In brief, I have witnessed a lot of events which have taken place. Mr. Kisiero has elaborated everything and I give him full support. The Government, during President Kenyatta's time as it has been said by Mr. Kisiero, appointed a commission when I was a headmaster of a school. This Commission recommended that Malakisi Location be

divided into two; that is Malakisi North and Malakisi South. Malakisi North was given six sub-locations, including Changara and Wamono which Mr. Kisiero has just mentioned. This one was taken away illegally. Otherwise, at the moment, we are very peaceful. We do not have any disputes with our neighbours. However, we have had disputes over leadership, administration, sharing of resources and we were being despised as a small group.

May I inform the Commissioners that we have never had a dispute with Tesos whom we border on the other side. Our dispute has all the time been with the Bukusu. I hope by now with the current Constitution, they will not mistreat us since we have been taken back to Bungoma County where we had sworn never to go back.

We have agreed to go back because of the current Constitution and we feel we shall share the resources equitably.

Now that we are appearing before this Commission, we want you to take our recommendations that, in future, Mt. Elgon be given its own county. We have never had a tarmacked road to date apart from this one which is coming from Kamukuywa. It is being built at a snail's pace. With our own administration and leadership, definitely, we shall develop. Before Mt. Elgon was given a district the roads here were impassable. It was also impossible for education officers to visit our schools because there were no roads. Our roads were impassable. But currently we are able to access even a school in the interior. This is our own area. As an elder, I want to suggest and propose that if the Government can give us fair treatment by just sharing whatever is there, definitely, we shall live in peace forever.

Since hon. Kisiero has given quite a lot just take in what he has said. I don't want to repeat; I do not want to take a lot of time. Thank you very much.

Mr. Tom Chavangi: Thank you, Mr. Ngaina. That has been very useful. That will go to the record in support of your fellow elder, hon. Wilberforce Kisiero. Unless the Commissioners have any questions, I will call another elder in support of what Mr. Ngaina has said.

The Presiding Chair (Commissioner Ojienda): I just want to make this remark when you are seated at your seat. It is good to listen to people who have seen it all. I just want to assure you that the Constitution to which you have referred has introduced a number of principles, including what we call inclusivity and representation of every community living in a county. I think there should be no fear that the Bukusu's will take every position available. They must ensure that every community living in the county is represented in the governance structure.

Under the same Constitution, we have the equalization fund which is specifically for marginalized areas. As the previous speaker said, it is important that the people of this region take advantage of this fund once the elements of devolution that are in the Constitution are put into action. I also just want to reassure you again that for those

brothers and sisters who live in Uganda and Tanzania, the law on dual citizenship that will come with the enactment of the new Constitution will be very valuable, so that they can come home. This is just an assurance I want to give you. Otherwise, thank you so much for your evidence.

Mr. Tom Chavangi: Commissioners, I will admit another Sabaot elder called Ben Chesebe.

(Mr. Ben Ng'etich Chesebe took the oath)

Mr. Ben Ng'etich Chesebe: My name is Ben Ng'etich Chesebe. I am a retired chief and the chairman of Cheptais Council of Elders. First, I would like to comment that what hon. Kisiero said has covered all the areas that all of us could do.

Mine is only, perhaps, to comment on a few areas which are now new. The Sabaots were marginalized during the colonial times. I was the first chief of Cheptais area. We served under early chiefs during that pre-colonial time.

Under the new Constitution we are part of Bungoma County. There is a fear. Our past history between us and the Bukusu is so nasty. Right now, we cannot believe that the Bukusu will respect the provisions of the new Constitution and respect the Sabaots. This is because we have had past problems with them as has been expressed by Mr. Kisiero.

In my case, I went to Bukusu School. When I was sitting for my Standard Eight examinations, at that time, it was called Form II, I passed and was to be admitted to Alliance High School. At that time, the chief was a board member at Alliance High School. I was with his son in the same class, but I did very well, better than his son. However, I was disqualified from going to Alliance Boys because they believed a Sabaot could not do that. They thought I was born by a Bukusu. When I repeated I refused to choose Alliance Boys and chose a smaller school.

Another example of the fear is community boundaries. We used to live peacefully with the Bukusu. We have lived with them for many years, but they do not respect our boundaries. In 1805, the Bukusu chose to cross to the Sabaot territory. A war ensued. We fought, but the Bukusu regretted. Later on, we made an agreement in 1886. We also had an agreement with the Bukusu which involved an oath. We used a dog for that oath and it was called the "Oath Dog Boundary". After this, those colonialists who were there made us sign the agreement. Three elders signed. A Sabaot elder called Kimengich signed it. Sudi Namachanja also signed it on behalf of Teso and Chief Nabongo Mumia signed it on behalf of the Luhyas.

After a few years, the Bukusu violated the agreement and invaded us in Cheptais Fort after crossing that boundary. We fought again and they regretted. Now they are with us. We do not want to dwell so much on the past. We want to move forward and develop our district.

On the problems that have befallen us---

Mr. Tom Chavangi: Commissioners, I will need to direct the witness at this point. We have repeatedly said that hon. Wilberforce Kisiero has given us a background of Mt. Elgon and the problems that have befallen this mountain. For the purposes of inclusivity, we would wish that the witness just gives us recommendations because all the issues of fear and the injustices in this mountain have been well brought out by hon. Wilberforce Kisiero. So, Mr. Chesebe, I request that you just give us your recommendations. What is the way forward? What do you think should be the way forward in terms of living between communities in this mountain? We know the history now.

Mr. Ben Ng'etich Chesebe: This is what I wanted to say before you interrupted me. Unlike other areas, the post election violence that hit Mt. Elgon was not because of elections. Ours was a land issue. My recommendations are that unless the Government settles all the landless people in Mt Elgon the same problem may recur. Our boys strayed and became members of the Sabaot Land Defence Force (SLDF) because they had nowhere to go. First, they decided to attack the Bukusu because they felt they were displaced by them. However, we, the elders, stood firm, but they turned against us. That was the genesis of the conflict in Mt. Elgon.

In our case, it was the Government that evicted people in Mt. Elgon after staying there for almost 40 years. So, we want all those people to be settled and the Government to respect councils of elders, so that the Sabaot Council of Elders, the Bukusu Council of Elders, the Teso Council of Elders and others can meet and pacify the situation, so that we do not have to repeat the past. Otherwise, I would not want to talk much unless there is a question I can answer.

Mr. Tom Chavangi: The witness has mentioned the existence of the SLDF which germinated as a result of land issues in this mountain. Did he justify the SLDF operation?

Mr. Ben Ng'etich Chesebe: Actually this is the way it was formed. Those boys who were born in Chebyuk after the evictions of 1989, the Government evicted them and rendered them landless. The worst eviction was that of 2006 where the Government decided to register people afresh and evicted them from their settlement. Most of these boys were school dropouts. They just went to the forest and formed the militia. We did not support it, but when we turned to the Government, the boys turned against us. So, that was the problem.

Mr. Tom Chavangi: Commissioners, I will hand over the witness to you.

The Presiding Chair (Commissioner Ojienda): Thank you very much for your testimony. I note that you have highlighted specifically on the Sabaot Land Defence Force and the reason why it was formed. This ties into the evidence that was given by hon. Wilberforce Kisiero. I want to ask the Commissioners if they have any questions to ask.

Commissioner Shava: I see that one of your recommendations is that councils of elders be allowed to facilitate inter-community dialogue, so that solutions can be found. When we are reading about what happened with the youth of this area and from what you have just told us about how the SLDF came to be formed, I cannot help wondering where you place women in all this. The women are the mothers of these boys. We read that there was a lot of rape that went on. It was women who suffered the rape. The women are the wives of the people who engaged in fighting. They are the grandmothers. When you are trying to move forward into a new way of doing things, do you think that more space should be created for women to be brought into these discussions to try and find solutions?

Mr. Ben Ng'etich Chesebe: According to the Sabaot culture and traditions, women do not appear in the Sabaot councils, but in a case like this, where we are now looking for peace, at such forums, we welcome them. Even at home, we have had meetings where we have involved the women. We have even identified those militia boys. We have their list and we have talked to them. In fact, most of them are regretting. Lastly, we elders at Cheptais, have gone to the extent of traditionally cleansing our boys because blood was spilled on our soil and our boys killed innocent people. We have cleansed them and now we want them to come back to us and join us in peace. We still have *askaris* but we want peace that can come from the bottom of our hearts. Perhaps this Commission is seeking to give us this peace.

Commissioner Shava: Thank you very much.

The Presiding Chair (Commissioner Ojienda): Thank you very much Ben, once again. I want to ask you a few honest questions on the Sabaot Land Defence Force (SLDF). Just be honest to this Commission, because we do not want this problem to recur in future. It has been said that if the land problem is finally resolved and people resettled, this problem will be over but we also hear that there might be a recurrence if the land problem is not solved. Is that your position?

Mr. Ben Ng'etich Chesebe: That is why I said that is our fear; unless the Government resolves that problem once and for all, some of the militia boys are still armed. We helped the Government to arrest them. They were caught with arms. Some surrendered with arms. Now, when they went to court, they were set free for lack of evidence. Then we begin to wonder because somebody has been caught with an exhibit and when he is taken to court, he comes back walking majestically. So, do you not think that can be a source of fear?

The Presiding Chair (Commissioner Ojienda): Yes, I think that can be a source of fear; that is why I am going to ask you the next question. If this force is alive and members are still there and are armed, what do you think can be done by the Government, or what advice can you give the Government on the way forward to ensure that this group is rehabilitated, and that we do not have the recurrence of the problem?

Mr. Ben Ng’etich Chesebe: We have helped the Government to identify the boys and we have even given them the names but then the way they are working is not now the way we can confirm that they are going to win because we have co-operated with them and many boys have reformed. It is only for the Government to find ways of disarming them.

The Presiding Chair (Commissioner Ojienda): What would you advise as the Vice-Chair of the Council of Elders of Cheptais in disarming members of this militia in such a manner that they get back to the community?

Mr. Ben Ng’etich Chesebe: We have given that information to the Provincial Administration.

The Presiding Chair (Commissioner Ojienda): How many people are they?

Mr. Ben Ng’etich Chesebe: They are over 2,000.

The Presiding Chair (Commissioner Ojienda): And how many people died?

Mr. Ben Ng’etich Chesebe: Also over 2,000.

The Presiding Chair (Commissioner Ojienda): Thank you very much for that information. I hope that you have given the right information. I just want to remind you and also to inform the members of the public that this country needs to exist as one and the people of this county and region need to co-exist; we need to approach every situation of conflict with honesty, truth, and justice with a view to ensuring that we live together as brothers and sisters. Thank you very much. Leader of Evidence!

Mr. Tom Chavangi: Thank you Chair. I would like to introduce another Sabaot elder called Ben Latebos.

The Presiding Chair (Commissioner Ojienda): Leader of Evidence, I hope he will be brief because we will be taking a short break.

(Mr. Ben Latebos Sirmoi took the oath)

Mr. Tom Chavangi: Just for the record, kindly state your names to the Commission?

Mr. Ben Latebos Sirmoi: My names are Ben Latebos Sirmoi.

Mr. Tom Chavangi: You are before this Commission as an elder from the Sabaot community and your colleagues, hon. Wilberforce Kisiero, Patrick and Ben Chesebe have actually brought out issues of the Sabaot community. So, kindly confine yourself to the recommendations that you would like to give to this Commission with regard to the Sabaot community.

Mr. Ben Latebos Sirmoi: I want to support all that hon. Kisiero and the speakers before him have said. What I want to say in addition is that according to what is going on at this time, besides what was said happened, is that maybe it was inciting conflict between the Sabaot and the Bukusu people. I cannot repeat what was said earlier but I want to say that some things revolve around the changing of names. This is because you can find that a name can be changed. Chermis has now been called Masupu. A place like Kampten is now called Nangili. A place like Kipchiria is now being called Waito. That is one of the things that has been inciting the Sabaot and their neighbours to come into conflict. Other things hon. Kisiero said. This is what is making people to be dehumanized. So, I say that such things should be avoided. Otherwise, the issue of returning to Bungoma because of administration, I think, can easily incite this community again.

I know that if we are given a representative as a minority group, that will assist us. What I only want this Commission to do is to focus on that. At the end, what will bring justice among these people and remove the bad blood between the two communities is when the Sabaot people will be given their own county. This is because since we got our own district, recruitment of our children for job opportunities in the regular police, Administration Police, prisons, teaching, medicine--- At least in our own district, we can say that we can get 100 vacancies, but in Bungoma we will get ten, and we will see this as an injustice to us. I agree with what hon. Kisiero said before.

About the issue of land, in 1972 our brothers in Kitale, who were given farms, were 499. Some of these 499 sold these farms to some people from Soy. Over eight hundred and fifty people got these farms; if you want to find records on that, there was a census which was conducted by the then District Commissioner called Mr. Bomo; that was in 1984. After that, our brothers from Chepkitala---. The majority of them never agreed because they are not farmers - nobody instructed them on how to farm. When they were moved from Chepkitala, they mostly adapted nomadic life. For that reason they could not go back to farming. After selling their farms, the Government decided to return them in 1988. When they returned in 1988, they came with their own property. Their cattle were dumped at Keprapa polling station and others at Kapsokwony National Cereals Board. Others were dumped at Kimilili Police Station and nobody came to claim even a single animal. They were again forced to go to Chebyuk where they met their brothers who had sold this land to them. It was now like two bulls in the same shed. That brought very big enmity.

In 1999, the Provincial Commissioner, Mr. Lekool, as hon. Kisiero has said, settled 80 per cent of those people who had sold their land, and 20 per cent of those people who had bought the land. Now, the 80 per cent of the people who bought land at Chebyuk were squatters. Now, those people in Phase III, when they were displaced in 1989, that area was deforested. After the deforestation, in 1991, the elders from Phase III went to the President on 24th November in 1991. I remember very well. They were 17 elders and Moi accepted them. When they came back, everybody went to his own homestead, which was a *manyatta*. They lived in those *manyattas* up to 1998. There was a District Commissioner called Christopher Munguti. He said that in Phase I and Phase II, the Government had completed the resettlement. He tried to complete Phase III but those

people who were there and had been given land by the Government said no. They wanted to be given their *manyatta* according to the instructions of the President but the DC refused. Led by the Chairman of KANU, who is now the current Member of Parliament, they went to the President and that DC was sacked; then they were told to go back to their *manyattas*. When they went back to their *manyattas* there was a DC called Namugunga who, in 2006, said that they should now complete Phase III. There were instructions that all the squatters be registered afresh. The people who had been given that land by the Government went to court and obtained a court order. So, they went on to recruit new squatters and after that they were given land measuring two and a half acres each.

So, the sons of the people who were given land by President Moi now came in to form the militia. That was when the war started. When there was that fighting, there were thieves. They were killing people. The Government just saw the SLDF. Also when all these things were happening, the armed forces came in. They found out what had happened earlier. They caused death which was worse than that which was caused by the militia. So, people who lived here underwent a lot of problems because there were people who were killed by the SLDF militia and those killed by the military.

Since the statements have been recorded, we only ask for help for the victims, because we have people whose ears were chopped off. We request for them to be given artificial ears. Those people who lost their properties, should also be compensated, so that we form a good relationship. Since we had our own district, we have been voting for the Bukusu. They become our councillors. Even at this time, my councillor is called Wepukhulu and we do not have a problem with him. The only problem is that if we go back to Bungoma, then we will not elect another Bukusu; when we go back we know they will talk a different language and when we are at home we speak one language. I want to end there and ask for reconciliation.

Mr. Tom Chavangi: Thank you very much, Mzee Ben. Commissioners, this is the last elder from the Sabaot community. However, something new has happened, and I beg that the next witness be heard after the lunch break. He is a very crucial witness and he wants to speak in the public. He was formerly the Executive Secretary of the SLDF. He is called Masai. Thank you and I leave the witness to you, Commissioners.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Ben. I just want to thank you again for that testimony. I note that you have details about what transpired during Chebyuk I, II and III and what led to the conflict. You have also made a number of recommendations including the one that you should not have a Bukusu elected for a position in the mountain, because you are back in Bungoma County. Why do you think that you cannot share whatever seats are available among the communities that live here like the Teso, Sabaot and Bukusu, and also share the resources of this mountain?

Mr. Ben Latebos Sirmoi: That one will happen fairly if we will have our own county in Mount Elgon. That will be fair but if we are going back to Bungoma, then we are going to be like one tribe. That one will not work.

The Presiding Chair (Commissioner Ojienda): What is the population of the Soy, Dorobo and Bongomek all put together?

Mr. Ben Latebos Sirmoi: I cannot answer that one. It can only be answered by looking at the records of the census that was done.

The Presiding Chair (Commissioner Ojienda): Hon. Wilberforce Kisiero was an MP of this area for a long time. I think he got votes from all communities. I just want to impress upon you that for Kenyans to live together, and to share resources, you should begin to think about a formula to ensure that every community, including the Sabaot, have a stake and are able to get to positions in that wider county, and the understanding begins with you elders. I want you to look for that reconciliatory element within your hearts, so that you are able to spread that to younger people. Thank you very much for your testimony.

We have now come to the end of this morning session. We will adjourn for one hour. We will be back at 2.00 p.m. on the dot to hear the next witness.

[The Commission adjourned temporarily at 1.25 p.m.]

[The Commission resumed at 2.30 p.m.]

The Presiding Chair (Commissioner Ojienda): Welcome back to the evening session. Leader of Evidence, please, call the first witness.

(Mr. Richard Wasilwa took the oath)

Mr. Tom Chavangi: Commissioners, the witness is a Bukhusu Elder. He has said that he will take 15 minutes. He has a memorandum titled; “Memorandum presented to the TJRC on past injustices meted to the Bukhusu Community by the Government of Kenya and the Sabaot Community.” Mr. Richard Wasilwa, for the purpose of records, kindly, state your names again.

Mr. Richard Wasilwa: My name is Richard Wasilwa. I was born here in Elgon, Chisuitaki Location, Chisitaki Sub Location, Kimama Village. I am a neighbor to the Sabaots.

Mr. Tom Chavangi: Mr. Wasilwa, you presented a memo before this Commission and you still have the memo. We want you to tell the Commissioners, in brief, the contents of the memo and the purpose of you being here.

Mr. Richard Wasilwa: My purpose of being here is to present a memo to the TJRC. I will not read the whole memorandum but I will get a few injustices that the Government and the Sabaot Community meted against us. Mount Elgon District is an agricultural area; a district of many communities like the Sabaots, Bukhusus, Dorobo and Tesos among other tribes. I will start with the first point. As a Bukhusu, I do not have any other neighbours. Whether God comes from heaven or wherever, I am a neighbour of the

Sabaots. I am a resident of this area and I should get all the privileges that I am supposed to get as a human being. I will rush through them.

Before 1963, during the colonial times, we were staying happily with our neighbours. In 1963, we started having problems. These began because of one thing. We thought it was because of elections. If elections were not held, we would have had very normal lives. In 1963 when we elected the first MP for Mt. Elgon, Mr. D. C. Watts, we had clashes. Houses were burnt and cattle stolen, homes were destroyed but the Government came in and stopped it. When it was stopped, we continued well. From 1961 up to 1974, we had the infamous tribal clashes. Those really affected us very much. People were killed, cattle stolen and homes destroyed. During that period, about 556 Bukhusus were killed across Mt. Elgon and Trans Nzoia and 50 Bukhusus displaced. During that time, land was taken over by Sabaots. That is why we wanted the Commission to visit Chesikaki and we show them the landscaping by the Sabaots. I will give an example of Councillor Timothy Buke. His land was taken. There was also Zephania Wechuli and Alfayo Wokure. Those are the best examples that during the visit, we can show you that their land was taken away by the Sabaots. The owners of the pieces of land are now staying out in the streets. I will talk about employment in Mt. Elgon, I will talk about it because I have been a Councillor. I have been a Councillor for two terms. I have been representing the Sabaots and the Bukhusus. When it comes to employment, you will see that the Bukhusus have suffered very much. We are not taken to teacher training colleges. When the Commissioners go back, they will see our annex attached here which shows how we have been deprived chances in the teachers training colleges and the police among other areas. To make the matter worse, in term of the administration, we have 16 locations and 41 sub-locations. Out of those locations, there is no Bukhusu who has become an assistant chief. That is why we, Bukhusus, wonder why our neighbours and yet we eat together, do not give us the same opportunities. When you go to Bungoma, you will find that the chief of Bungoma Town is a Sabaot. In Machama, you will also find that the chief is a Sabaot. We do not see that. That is what makes us feel that our neighbours want to suffocate us.

We are still perturbed because of one thing. When our people were killed during the clashes in 1992, we did not retaliate. However, funny enough, to the Government of Kenya, there was an organization called FERA where we were picked out, me being a victim and taken to the torture chambers. They said that I wanted to overthrow the Government. I would not have overthrown the Government because I had no weapons to do anything. I had no *askaris* and all the younger Bukhusus were taken away. They are staying in Uganda.

In the Chebyuk land, there is no single Bukhusu who stays up there. Funny enough, in 2007/2008 during the past elections, the Sabaot Land Defense Force came into Kimama and picked out people. There is a family that had all its people killed. We have the names here. We did not have a claim on the land of Chebyuk. We wonder why our people were killed. In all this time, we did not have problems. A Bukhusu has never attacked a Sabaot. However, this time round, I do not know what to do. I wanted you to come to Kimama so that you see how we have been living with the Sabaot Land Defence Force. We know that the group is supported by the Sabaot politicians and their aim is to remove other

tribes from Mount Elgon and Trans Nzoia. Finally, call a spade a spade and not a big spoon. I do not see politicians talking about this issue now, even though it is a very serious and dangerous thing. We want to come together because I cannot do without a Sabaot. If we meet in Bungoma, we still eat together because we are neighbours.

Briefly, I will tell you about the Bukhusus and how they found themselves around Mt. Elgon. We call it Mount Masaba. We have gone around it almost three times. Our ancestors have lived here for very many years. Even if we are sidelined, we are closer to Mt. Elgon or Masaba and we do not know why someone should say that we should not stay there.

We know that we have compiled everything in this memorandum. We are asking the Commissioners to go through it and find a way in which we can solve these problems and live happily as we have been staying. As I have told you, I was a councillor.

First of all, I worked as a public health officer. I then became a politician. We are moving on and building this district together. Our solution is that we want the Commission to make sure that we go back to our land. These people snatched our land. You should make sure that those who took it pay. The families must be paid because they are innocent. We have been moving together. There is nothing you can say that we have not done together. Even *Mheshimiwa* said that we have been together all the time. These *Wazees* have said that too.

Let me give you an example. During circumcision, when the people want to circumcise their boys, we do it together. So, I will end there.

Mr. Tom Chavangi: Mzee Richard, you seem to be nostalgic and emotional about Bukhusus. You are emotional because you feel that the Bukhusus and the Sabaots should live together?

Mr. Richard Wasilwa: Yes.

Mr. Tom Chavangi: Why is it not happening?

Mr. Richard Wasilwa: That's the thing.

Mr. Tom Chavangi: Do you want to live together?

Mr. Richard Wasilwa: Yes.

Mr. Tom Chavangi: For you to live together, there are some things we would like to understand, as a Commission. From your presentation, it is very clear that you feel that the Sabaots have denied you opportunities in this mountain. Is that your position?

Mr. Richard Wasilwa: Yes.

Mr. Tom Chavangi: You have also said that some of the Bukhusus have been displaced from Chesikaki, which is their registered land. How did that take place?

Mr. Richard Wasilwa: That was in 1992, when clashes were taking place. During the 1992 clashes, the Bukhusus were displaced in Sirisia. That happened because of our politicians who said, remove *madoadoa*. When they say something like that, that is what people do.

Mr. Tom Chavangi: You have talked about *madoadoa*. Some people in this room do not understand what that means. You have related the issue of *madoadoa* with the SLDF. What do you know about the SLDF and why were they saying that you should remove the *madoadoa*.

Mr. Richard Wasilwa: Their aim was to remove Bukhusus and other tribes. The Sabaot claimed that this was their land. The *madoadoa* was introduced by politicians.

Mr. Tom Chavangi: Who are the leaders who mentioned that name? Do you want to mention them?

Mr. Richard Wasilwa: I said that we should start with politicians. They know themselves. There are many other things. We do not have many politicians here.

Mr. Tom Chavangi: It is okay. We will get that from the memorandum. What do you know about the SLDF?

Mr. Richard Wasilwa: I know that the SLDF is a movement that was started by Sabaot politicians. At that time, we did not know what they were all about. We thought that they were formed to claim the Chebyuk land. We did not know what they were all about.

Mr. Tom Chavangi: You have also told the Commission about an organization called FERA. What is FERA?

Mr. Richard Wasilwa: FERA stands for February 18th Resistance Army.

Mr. Tom Chavangi: You also told the Commission that during that time, you were picked on suspicion that you were a member of the FERA Movement?

Mr. Richard Wasilwa: Yes.

Mr. Tom Chavangi: Why were you picked and what was the aftermath?

Mr. Richard Wasilwa: That is why I am saying that, that was something that was being organized by the Government and the Sabaots. They thought that we would attack the Sabaots. I do not know why I was picked. People were picked randomly.

Mr. Tom Chavangi: What happened after you were released as a FERA member?

Mr. Richard Wasilwa: I just came back to my home.

Mr. Tom Chavangi: Nothing happened to you after your arrest?

Mr. Richard Wasilwa: No

Mr. Tom Chavangi: How long were you in detention?

Mr. Richard Wasilwa: Nine months.

Mr. Tom Chavangi: You were in detention for nine months? Where was that?

Mr. Richard Wasilwa: I was detained at the Nyayo Torture Chambers, the Nyati House and many other places. For a few months, I stayed in Kamiti and appeared before Chief Magistrate Kidulah. I was accused of treason. I was released on bond but picked again. I was then taken to Kakamega where charges of killing people were placed on me. I did not do that because I do not know how to shoot or how to throw the spear. That case ended up like that. Eventually, I was released. I came back and we are happy. People gave me votes.

Mr. Tom Chavangi: Commissioners, I do not have further questions for this witness.

The Presiding Chair (Commissioner Ojienda): Thank you Leader of Evidence and Mr. Wasilwa for your testimony. We have heard about your testimony and the suffering you underwent on behalf of the Bukhusu Community. I would like to know whether the Commissioners have any questions for you.

Commissioner Dinka: Mr. Wasilwa, thank you for your testimony. I have two questions. The first one is very simple. I am not Kenyan and, therefore, do not understand the concept *madoadoa*. What do you mean by that?

Mr. Richard Wasilwa: We live here as different tribes. We have the Bukhusus, Tesos, Sabaots and the Kikuyus. When it is elections time, politicians promise to evict certain tribes from the area so that they can get votes. That is what *madoadoa* means. It means having different tribes together.

Commissioner Dinka: The other one is about the Bukhusus and the Sabaots. It appears to me that this happens during elections time and it can almost be predicted. Why does that happen? Why do the problems between the two communities become intensified at that time?

Mr. Richard Wasilwa: I have been a politician and when it comes to election time, Sabaots vote for their own and the Bukhusus vote for the Bukhusus. When things get to a stage like Chesikaki where the problem arises, we always have representatives from the three tribes standing. We have the Sabaots, Kikuyus and the Tesos. When it comes to

voting, the Bukhusus get their own representative. The Sabaot always object to that and say that it is their land and they must have their own representative.

Commissioner Dinka: Thank you Mr. Wasilwa. If you met the Chair of the Commission, what would you suggest as the best way to resolve the problem in the future? In future, what can be done to eliminate the tension between the two communities during election time?

Mr. Richard Wasilwa: I have been a politician. I think the best solution is that people should learn to live together and stay together. When it comes to election, they should come together and listen to each other so that we can live happily.

Let me give you an example. I was elected in 2002; the two wards were merged, namely Sasuri and Chesikaki. The Sabaots, the Bukusus and the Tesos all wanted to have a representative. I always give that example of Kamarang. When it came to voting, I got three votes and the Sabaots were very furious. They asked: "Who gave this Bukusu votes?" But the presiding officer told those young men who wanted to beat my agents that I was a very well known and liked by people. So, we should be educated. Politicians should not think of how we stayed long time ago and how we are moving. Let us be together as we are now moving in one county. Let us go there together. We can have a Governor here. We want peace. Politicians who incite people should be dealt with.

Commissioner Dinka: Thank you very much. I have no other question.

Commissioner Chawatama: Thank you very much for your testimony. It is always a good thing to hear from people from different tribes because we begin to see a clearer picture of how people in this region live. It is also good that you are speaking peace and my prayer is that one day, that peace that you yearn for will come to this region. I would like to find out from the time of independence till now, have you had any MPs who have been from your tribe, Bukusu?

Mr. Richard Wasilwa: Never.

Commissioner Chawatama: All the MPs have come from where?

Mr. Richard Wasilwa: From the Sabaot group.

Commissioner Chawatama: From the time of Independence?

Mr. Richard Wasilwa: Yes.

Commissioner Chawatama: The next question is: Who appoints chiefs?

Mr. Richard Wasilwa: I think it is the Provincial Administration. The Public Service Commission appoints chiefs.

Commissioner Chawatama: Have you understood the process of appointing chiefs?

Mr. Richard Wasilwa: Yes, I have followed.

Commissioner Shawatama: Could you share just briefly on the process?

Mr. Richard Wasilwa: A chief is a person who must understand the people; who is free to talk to the people, a good ruler who tells the people---

Commissioner Chawatama: My question is not the kind of person. I have asked you if you understand the process. What does the administration look for when they are looking for a chief? What do they do? Do they ask people to apply?

Mr. Richard Wasilwa: They ask people to apply.

Commissioner Chawatama: Do you know whether or not, the Bukusus have applied?

Mr. Richard Wasilwa: I know.

Commissioner Chawatama: They have applied in the past?

Mr. Richard Wasilwa: Yes.

Commissioner Chawatama: And it was your testimony that despite applying, no chief or assistant chief has been appointed?

Mr. Richard Wasilwa: Yes.

Commissioner Chawatama: The time you were apprehended, what incident had taken place before you were apprehended?

Mr. Richard Wasilwa: No incident had taken place. There were suspicions. People became suspicious. When people fear an organization; an army, for example, the STLA (?), they fear. We were apprehended because of being leaders of the Bukusus.

Commissioner Chawatama: You were charged with murder; is that correct? And you were sentenced; how long did you say you were in prison?

Mr. Richard Wasilwa: I was in detention for nine months. I was not sentenced.

Commissioner Chawatama: Thank you very much.

Commissioner Shava: Thank you very much, Mr. Wasilwa. I just have one question for you. You spoke about FERA, which seems to be the organization which you have been linked to although you have stated clearly that you are not linked to it. But perhaps, you

can tell us a little bit about what you know. What was the reason for FERA? What was FERA about? Who were the members of FERA and what were they trying to achieve?

Mr. Richard Wasilwa: That is the thing that even the court failed to bring out. We had no---

Commissioner Shava: Mr. Wasilwa, I am not saying that you are a member. No; I understand that you have said that you were not a member. I am saying that since it was an organization in this area, like any other inhabitant of this area, you may know what it was all about. If you do, could you share that information with us for our own understanding?

Mr. Richard Wasilwa: The FERA was connected to Bukusus. The Bukusus had suffered the clashes of 1992. Perhaps, the Sabaots and the Government thought that, FERA could erupt and attack the Sabaot group, but we did not know that thing. We did not know them. It was a planted thing. People were picked and tortured and even some imprisoned. We were released recently after being tortured but the organization had no ground. The Government thought that the organization was connected to the Bukusus. We were apprehended.

Commissioner Shava: I am very sorry about the way you were detained. We know the kind of things that would happen in Nyayo House. They were terrible and inhuman. They were also illegal. We are very sorry that you had to go through that. This Commission is trying to find out the truth about very many things that have happened in our country so that they do not happen again. It can be very difficult to speak the truth, but if we are going to help ourselves, we need to know the truth. I believe that you as a two-term political leader, born and bred in this area would know, just like anybody else would know, whether they are Sabaot or Bukusu, anybody else would know what the FERA was about; namely, February 18th Revolutionary Army. Why that name? What was it for? It was not fighting for Independence. It was already after 1963. So, what was it for?

Mr. Richard Wasilwa: It was even dismantled before we knew the actual thing. I cannot say what the aim was.

Commissioner Shava: Mr. Wasilwa, I do not think you are being very candid. If you were here in the morning, you would have heard some members of the Sabaot community telling us why the SLDF was formed. They did not agree with it and they told us very clearly that they even got into trouble with those same youths because they did not agree with it. But they did not say that they did not know that it existed or that they did not know what it was for. So, I just want to ask you if you can let us know what the purpose of that organization was, which we understand very clearly, you were not connected to. It was a long time ago and you could have read somewhere or heard from people. What were the aims and objectives of the organization, just so that we can understand when you say that the Government thought it was an organization to overthrow the Government or to attack the Sabaots? Why would anybody think that? What is the background?

Mr. Richard Wasilwa: I will just go back to that thing. The majority of the people are not living now, like Odongo himself is dead. Those people had a forum of bringing change. They were tired of the Government and wanted to bring change, but we did not want to support it because we did not know what it was.

Mr. Tom Chavangi: Thank you very much, Mr. Wasilwa for your testimony. You were a victim of detention following your arrest over FERA and for nine months, you were locked away. You must have undergone a lot of torture and other forms of mistreatment. I just want to ask a few follow up questions. You have spoken on behalf of the Bukusus who live in Mount Elgon and you say that you were born there. Are you aware when the Bukusus moved to Mount Elgon?

Mr. Richard Wasilwa: The Bukusus moved to Mount Elgon around the 17th Century. When you go through the circumcision of the Bukusus, the earliest Bukusus were circumcised here around the 17th Century. We have forts that the Bukusus used to live in. We have all those forts and even if we go on the ground, we will see them. We can name them when we go on site visiting. We can show you some of the places where the Bukusus stayed around the 17th Century.

Mr. Tom Chavangi: Thank you for that clarification. My next question is a follow up to what you were asked before. In the course of your arrest or before your arrest, did you get to meet any of the persons who were called the leaders of FERA? By this I mean, Wangamati or John Odongo?

Mr. Richard Wasilwa: I always meet Wangamati and not John Odongo. He died before I saw him.

Mr. Tom Chavangi: Thirdly, when you are referring to the conflict between the Sabaot and the Bukusus during the SLDF operation, you said that many Bukusus were killed and you have given us the names in your memorandum. Just for the sake of the public, how many Bukusus were killed during the SLDF operation?

Mr. Richard Wasilwa: The ones that I have written in the memorandum are about 14 people.

Mr. Tom Chavangi: The next question would be about politicians. You said that politicians are the ones who have led to the problem in Mount Elgon. Is that right?

Mr. Richard Wasilwa: Yes.

Mr. Tom Chavangi: And those are politicians for what period?

Mr. Richard Wasilwa: The politician who stayed in Parliament longer is hon. Kisiero. He is the one who stayed longer there, but most of them go for one term and they are out. The problem arose during the reign of hon. Kisiero.

Mr. Tom Chavangi: That is very clear. I want to ask you the next question, Mr. Wasilwa. You have heard that the Commission is preaching truth, justice and reconciliation. What is your recommendation as a Bukusu politician for sustainable peace in Mount Elgon?

Mr. Richard Wasilwa: We must stay together as people of one nation and good neighbours. I remember when the army came in, most Sabaots ran away and bought land in Bungoma. They are staying with Bukus. Let us preach unity. We must preach and practice unity.

Commissioner Dinka: Thank you, Mr. Wasilwa, for finding time to come all the way from Chesikaki to speak to the Commission. I want to just laud you for taking that step to be here today.

Mr. Tom Chavangi: Thank you Commissioner. We have another elder called Timothy Mulumbi who will be supporting Richard Wasilwa. We have agreed that he will do six minutes.

Commissioner Dinka: He should confine himself to the recommendations.

Mr. Tom Chavangi: Yes, he is confining himself to the recommendations.

(Mr. Timothy Mulumbi took the oath)

Mr. Tom Chavangi: Mr. Timothy Mulumbi, for the second time, kindly tell this Commission your names.

Mr. Timothy Mulumbi: I am Timothy Mulumbi.

Mr. Tom Chavangi: Mr. Timothy Mulumbi, what do you do within the Bukusu Council of Elders?

Mr. Timothy Mulumbi: I am one of the members in the Council of Elders.

Mr. Tom Chavangi: You have heard what Mr. Wasilwa has said. He has brought out the issue of the Bukus and how they have suffered under the Kenyan government and their relationship with the Sabaots. In his recommendation, he has stated that he feels that there should be harmony between the two tribes. What do you have in your recommendations?

Mr. Timothy Mulumbi: I am very happy for the opportunity given to me this evening. There is a purpose why the TJRC came on the ground. I know the purpose is to heal the wounds of the communities in Mount Elgon, particularly the Sabaot, Bukusu and Teso. You have given us one lesson to learn how to forgive. If we go into history, we will see that the modern East African people, namely; the Nilotes, Bantus and the Cushites, have been in East Africa for a minimum of 1,500 years, but when the original arrived, they were really tortured. They were evicted, for example, the Dorobo, El Molo, Sirikwa and

others. They were destroyed and we do not even have the history of those people. That is the reality. If I asked people in this hall who the witnesses of those people who were the originals were, there will be no answer. My challenge to the Sabaot, Bukusu and Teso is that we should share what the Lord has given us. If they are resources, let us share because we are God's people. God has no discrimination. Despite our languages, we are one person.

Let me come back to 1992 and how the clashes started. In fact, I was one of the victims. I stayed in Cheptais and I am one of the people who were displaced. The Government knew what was happening. It is as if it was a Government project. I say this because when the clashes started, the brothers from the other side, the Sabaot, who were active in service, especially the police, the GSU and the AP came on the ground and trained the youth to come and eliminate the opposition ethnic groups. Once the political temperature rises, we normally have clashes and this has become history. So, I think the Government was aware because our brothers were given modern weapons and up to now, they are still having them. They have not disarmed the perpetrators. That is why there is that fear. Another is that in 1992 when Section 2(a) was scrapped, the head of State, Daniel Arap Moi, said that now that Section 2(a) had been scrapped, it was automatic that we were going to have tribal clashes and it happened. Most of the people were killed and thrown out of their farms and the Government was aware. When you reported to the police station, they would tell you that, that was Gor Mahia and Abaluhya. There was nothing they could do.

That caused worry to the people. Most of the people ran away for security in neighbouring districts and countries like Uganda. That gave us a strong picture that the Government was aware of what was happening. The Bukus had no weapons. I strongly support what has been said by my former leader that truly, this has happened and people are wounded but because you have dared to come on the ground to collect the testimony of every individual, this is one step towards healing. I recommend that the Government disarms the perpetrators. They should come up with projects like putting up schools, hospitals and construct roads. Those projects will be historical events to what happened. When the people see what the Government has done, they will lie in harmony. There will be nobody who will say that he is a Bukusu, Teso or Sabaot. I am married to a Sabaot. Let us be honest and not cheat this Commission. Let us tell the truth that we need harmony. We need healing. Then the IDPs should be compensated. They lost their brothers, neighbours, friends and properties. I know that there is the issue of the FERA. I was one of the victims, but in brief, it happened for those who were innocent.

We were implicated because we belong to an opposition ethnic group. We belonged to opposition parties and the Government was worried that it could be pushed out of office. So, I pray as Paul said that he is not worthy but he is trying so that he could go on focusing on what was coming. If only the TJRC could come up with very strong statements and bring in forums for the Bukusu, Teso and the Sabaot, especially the elders, I know that the wounds will heal. You can quote or misquote me but that is the reality from the innermost of my heart.

Mr. Tom Chavangi: Having listened to Timothy, I managed to generate three questions, but for the sake of the interruption of the Commissioners, he has mentioned Gor Mahia and Abaluhya. Those two are football clubs in Kenya. Gor Mahia was formed as a result of people from the Lake region coming together and formed a team that resonated with their people, but later, that team is composed of all the nationals in the country, including internationals, but has maintained its name as Gor Mahia. The same with the Abaluhya Football Club which was formed for the purposes of the Luhyias, but latterly, it has also assumed an international posture. Having said that, I have three questions for Timothy; Timothy, you said that the Government of Kenya gave some weapons; to whom?

Mr. Timothy Mulumbi: Let us say the indigenous of the area who are the Sabaots.

Mr. Tom Chavangi: You also say that there were perpetrators who are still amongst us. Who are these perpetrators? Do you know them?

Mr. Timothy Mulumbi: Yes, they were leaders. The insiders who organize everything here, we know them but we want wounds to heal.

Mr. Tom Chavangi: So, these are people that you know very well?

Mr. Timothy Mulumbi: Yes, we know them.

Mr. Tom Chavangi: Lastly, you say that after all these skirmishes, you would go to the police and they would tell you: This is like a match between Gor Mahia and Abaluhya. What did that mean? How did you interpret that?

Mr. Timothy Mulumbi: It meant that you had no say here, unless you went where you belonged. If there is an area for Bukusu, you go there. That is what it meant.

Mr. Tom Chavangi: Thank you, Commissioners. I do not have further questions for the witness.

The Presiding Chair (Commissioner Ojienda): Thank you, leader of evidence.

Commissioner Dinka: Thank you, Mr. Mulumbi for your testimony. I do not have too many questions but one thing that burdens me is that I want some clarification from you. When you suggest that the Government forces like the APs and the GSU came over to train young Sabaots as militias and then the Government gave them weapons, this is a very serious statement as far as I can see. Granted that there is tension, quarrel and periodical violence between the communities like the Bukus and the Sabaot, why would the Government take sides, in your opinion? It is a Government of all Kenyans and instead of standing in-between the two and calming the situation, it intensified the quarrels by arming one side. Why do you think the Government could do that?

Mr. Timothy Mulumbi: The Government of the day knew very well that the opposition could take over the Government. Therefore, there was no other way and they had to

instruct fellows from Mount Elgon who were still active in service like the Police, APs and the GSU to come on the ground and train their people. Two, I said so because when we in the opposition ethnic group could lament, no step could be taken. Then we had to conclude and say that the Government was aware of what was going on. They were using guns. That gave us a picture that the Government was aware.

Commissioner Dinka: Let us be clear on this. Just because the Government did not intervene and stop that thing effectively; the quarrel between the two communities, you concluded that, then the Government was on the side of one group? Weapons may not be sourced from Government sources only. They can be bought from outside in the market. Across the border, for example, there are a lot of small weapons floating all over the place, in the great lakes area including Uganda, Tanzania, Rwanda, Burundi and all around you. Could the weapons have come from there?

Mr. Timothy Mulumbi: I say so because recently when we had the SLDF, when the Government realized that they were eliminating the people with illegal arms, it came in and stopped that SLDF. I think it is very clear and you can even see. That is why the situation is calm because the Government intervened immediately. Otherwise, Mount Elgon could not have been as it is.

Commissioner Dinka: Thank you very much; I have no further question.

Commissioner Shava: Mr. Mulumbi, this is the second time I have seen you because I was here in the civic education tours last year and we had the opportunity to interact. I would like to thank you very much for coming all the way here today to speak in what must be for you, difficult circumstances. I would also like to thank you for speaking so frankly. It may encourage you to know if you were to hear in the morning that one of the Sabaot elders made the same recommendations as you have made; speaking freely and saying that, yes, those arms are still out there and that these arms should be recovered, particularly as we go towards the election. I have no question for you but just to appreciate your testimony.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Mr. Mulumbi. You have given a testimony that is very helpful. I just want you to clarify two or three points. You have said that during the conflicts involving the Sabaots and the Bukus, there was reference to Gor Mahia and AFC Leopards clubs. That was after Section 2 (a) of the Constitution was repealed or when the one party state ceased to exist. Tell me if you had any personal contacts with any administrator, or where did you hear these words? Who utter these words?

Mr. Timothy Mulumbi: I should be very frank. By 1992, I was a leader in the opposition. I even established an office in Cheptais Market. I had put on my hat of FORD. However, my friends came and took it away. They burnt it. I had no quarrel with them. From there, I went to report this matter at the divisional headquarters. I found a District Officer by the name of Mr. Justus Mwathi and I told him what had happened. He

told me that I had forgotten that that was a KANU zone. He advised me to leave the place immediately.

At that time, Mr. Francis Lekolool was PC, Western Province. Mr. Changole was the DC in Bungoma. They had a meeting at Cheptais whose purpose was to establish whether there was opposition in Mount Elgon or not. As I said, I was a leader in the opposition and I could not shy away from saying so to those people who listened to me. I was not cowed because I knew very well that the Government was about to be taken over by the opposition. In that meeting, they wanted to find out whether there were opposition sympathizers in Mt. Elgon. I flashed a two finger salute to show that there was opposition in Mt. Elgon. From there, things became hot. Initially, they thought there was no opposition in this district.

The Presiding Chair (Commissioner Ojienda): So were there clashes after that meeting or before?

Mr. Timothy Mulumbi: After that meeting, the clashes started. The late Yona Simiti was killed in that particular day. I had to flee to Uganda for my own safety.

The Presiding Chair (Commissioner Ojienda): How long were you in Uganda?

Mr. Timothy Mulumbi: I was there for six months.

The Presiding Chair (Commissioner Ojienda): Sorry for that experience. Just a follow up question, Mr. Mulumbi, you have said that you are a true example of reconciliation. You are married to a Sabaot. Does it make a difference to you that you did not marry a Bukusu?

Mr. Timothy Mulumbi: To me, it is normal. A woman is a woman. A woman can be married anywhere. I do not hate my wife because she is my wife and a mother of my children. I love her so much. So, clashes could not disintegrate my family.

The Presiding Chair (Commissioner Ojienda): Mr. Mulumbi, this commission has been told that the Bukusu have marginalized and assimilated the Sabaots, including by marrying them, like you have done. Do you consider this an act of marginalization?

Mr. Timothy Mulumbi: It is not an act of marginalization. We have not marginalized the Sabaot. In fact, when it comes to employment, we are marginalized. For example, if they employ ten teachers, probably, you can get one or two Bukusus. Majority of those employed are from Sabaot community. Us we are treated as the minority community. This is not true.

The Presiding Chair (Commissioner Ojienda): Thank you very much, Mr. Mulumbi, for your evidence.

Mr. Patrick Njue: Commissioners, that is all from a representative elder from Bukusu community. We will now call one representative of elders from Teso Community.

(Mr. Emmanuel Masake took the oath)

Good afternoon, Sir!

Mr. Emmanuel Masake: Good Afternoon!

Mr. Patrick Njue: Once again, kindly, please, for the record, tell us your full names.

Mr. Emmanuel Masake: My name is Emmanuel Masake. I come from Cheptais. I was born in Cheptais more than 60 years ago.

Mr. Patrick Njue: Very well, Mr. Emmanuel. We appreciate your being here and the reason you are here is because there is a memorandum that you intend to make a presentation on, on behalf of the Iteso. Is that the position?

Mr. Emmanuel Masake: Yes!

Mr. Patrick Njue: I hope you are now ready with your presentation. I notice it is a voluminous document that you have prepared. We thank you for the time you have put into it. I will ask that you now dwell into issues.

Mr. Emmanuel Masake: Currently, I am a minister in the Iteso Cultural Union. I am in charge of planning and economic development. So, I am here on behalf of all Teso in the world. I am representing Emoromoro Papa Iteso, the King of Iteso. The message that he gives to all of us, as the communities of the world, is live in peace and unity.

Now let me say a short history about the Iteso. A large number or 80 per cent of of Tesos live in Uganda. In fact, they occupy about nine districts in Uganda. They live in two districts in the Republic of Kenya. However, I will restrict myself to Teso in Mt. Elgon at large. That is where I come from.

Mt. Elgon District has three main ethnic groups. The majority are Sabaots followed by the Bukusu and the Teso respectively. We have lived with all these communities since time immemorial. We interact with them very nicely. But there have also been issues where there have been some clashes. However, we have not had any serious clashes for a very long time with the Bukusu. In the past, we are told that Tesos and Bukusu ate dogs together when they were signing peace agreement between themselves.

I want to talk about our brothers; the Sabaot. They are Highland Nilotic group. According to history, they migrated together with Tesos. Where you get the Teso, you will get the Sabaot. As I said, we have been having some small differences with them. However, we have discovered that we, leaders, contribute greatly to these clashes among our communities. If you find a Teso and a Sabaot fighting, then you know there is a

difference in leadership somewhere. Nevertheless, I want to point out some very serious issues which we must address. The Tesos and Sabaot are a minority in this district compared to other communities. We had a serious clash between the two sub-tribes in 1991/92. This was during the infamous 1991/92 clashes. This mostly involved the Tesos in Kapsokwony and Kapkamarion. There was a complete misunderstanding between leadership. This misunderstanding ended up with the Sabaot attacking the Tesos. Tesos were displaced from their own parcels of land. To date, they are in serious problems. Some kind of compensation needs to be extended to them. If possible, they be resettled back to their pieces of land.

There have also been some minor clashes down in Cheptais. These clashes revolve around issues of land. We also feel very strongly that those people who were affected be compensated or payment made in one way or another. As I said earlier on, we want to move forward because we cannot separate the two communities. There is no way we can separate them, and until the return of Jesus, the Sabaot and the Bukusu will remain together. Even if they will fight, they will come together. If you come to my own homestead, I have several mothers who are Bukusu. I have several sister-in-laws who are Sabaot. So, when we fight, we get really embarrassed. Sometimes, we become even shy meeting our own friends. We have to stop fighting and live together in harmony. I would urge the Government when they talk about Vision 2030 to involve the Sabaot, the Teso and the Bukusu in Mount Elgon in various economic activities.

Let us open institutions of high learning for our people. We believe our children are capable of joining universities. We want our sons and daughters to join universities. They will be meeting together and laughing and enjoying one another. That way we will co-exist very peacefully.

Finally, I want to recognize the presence of Bramwel Duane. He can just stand wherever he is and wave to the commissioners. I would also like to recognize the presence of Jared Otepa. Last but not least, I would like also to recognize the presence of all the people from Cheptais and Tesos. You can all stand up and you will be seen. Asanteni sana!

Mr. Patrick Njue: Thank you, Mr. Masake, for giving a brief presentation. I will first begin by acknowledging greetings from your king and again send greetings to him as well. I also want to commend you for your clarion call for peace among the communities.

I will ask you just a question or two before our commissioners clarify the same, if need be. Now, you have talked about the clashes of 1991-1992. Some of your people; the Teso, you said they fled? Where are they living at the moment?

Mr. Emmanuel Masake: In fact, a good testimony to that one is Mr. Justus Atepa. There are certain numbers of Tesos who are living out of their land. They ran away and their parcels land are occupied by Sabaots.

Mr. Patrick Njue: Secondly, I have had a look at the memorandum in brief, just from the preliminary; there is a reference to a Mwangovia Commission. This Commission,

among others, was mandated to look at the plight of the Teso people and the fact that they felt they were marginalized. Is this still the case? Did the Commission make any recommendations to that effect and were they ever met to the satisfaction of your people?

Mr. Emmanuel Masake: Yes, we raised our concern with the Mwangovia Commission. We felt Teso people were being marginalized. However, since then, things have changed. Right now, Teso have two districts. Mt. Elgon has also two districts; that is, Cheptais and Kapsokwony. We will very soon agree on the matters of boundaries. We, as elders, shall come together with other stakeholders and agree on where the borders will be. We made our presentations to the Mwangovia Commission.

Mr. Patrick Njue: So, as things stand, does your community feel marginalized as it were?

Mr. Emmanuel Masake: Not so much. I think we feel we are being recognized now. If you read all documents pertaining to Mt. Elgon development, all the three tribes are involved. These are the Sabaot, the Bukusu, and the Iteso.

Mr. Patrick Njue: Once again, thank you very much for your testimony. I now hand you over to the commissioners to ask you a few questions.

Commissioner Chawatama: Thank you very much for your testimony. I hear you and I see your spirit. It is so gentle and so soft-spoken. I am sure that you represent all peace loving people of Teso. You have said that every time there are clashes, the problem can be traced back to your leaders. What is it that the leaders either say or do that leads to these clashes?

Mr. Emmanuel Masake: I, as a leader or the Minister of the Iteso Cultural Union, I have to be very careful when I talk to my people. If they hear me say something bad, they will emulate it. In fact, at times when there are clashes, it were better if the leaders themselves came to the table. If they want to exchange blows among themselves, let them do so without involving wananchi. So it is normal when leaders talk at cross purposes that the ordinary wananchi suffers.

Commissioner Chawatama: I think it is almost strange to ask this question, but why is there a tendency or attraction to bad leaders? This is what we keep on hearing about the leaders in this region. What attracts the people in this region to have bad leaders?

Mr. Emmanuel Masake: To become a leader, you must lead people. You can be a very bad person, but you lead some people. Equally, you can be a very good person and you cannot be a leader. So, a leader is somebody who can take people either to hell or wherever you want to take them. So if you are a bad leader, you can take them wherever you want. So it is really a matter of human discussion and a managerial issue.

Commissioner Chawatama: Casting your leaders aside, just looking at the three groups; that is, the Teso, the Bukusu, and the Sabaot, where do you place the people? What do you think the people are looking for now?

Mr. Emmanuel Masake: We need a lot of avenues like this one. We need to hold a lot of peace meetings in the community. We need to help, probably, the Sabaot. Why did the Sabaot start killing a fellow Sabaot? Should they fight over land? We should not condemn the Sabaot and say that they live alone because they are bad people. We need to assist them to live in peace. The development of Mt. Elgon will only be realized if we work together. Unity is the key for our development. I think with exchange of ideas from the three communities, we will develop our district. If we are left alone, we will destroy ourselves.

Commissioner Chawatama: You mentioned that following an attack from the Sabaot, there were some Tesos who were misplaced. Where are they right now?

Mr. Emmanuel Masake: In fact, I had already answered that question. A good number of them went to Teso District, Bungoma, especially in Kimilili where they bought small plots. Some of them have died because of frustration and poverty. As result, daughters and mothers engaged in illicit sexual behaviour. Most of them have died from HIV/AIDs complications.

Commissioner Chawatama: Thank you. You have touched on the impact that some of these clashes have especially on women and children. During the peace talks that you talked about, I think that is something that everybody ought to look at. Even coming from the northern part of Kenya, the women are tired. They set up a home, but it is burnt and they lose everything. The women are really tired. When you meet, you must discuss amongst yourselves, how these clashes and misunderstandings have impacted on your people, especially women and children.

Mr. Emmanuel Masake: I hope this morning in Cheptais, you saw women, children and widows living in abject poverty. The immediate impact is great on women and their children. We need to assist them.

Commissioner Chawatama: Everybody is here; there are leaders here who represent the different groups. They have heard what you have said. I am sure they have also heard what I have said. It is the season for truth, justice and reconciliation. We are here at the right time. It is time to begin to talk about peace and living together in harmony. Thank you very much for your testimony.

Commissioner Farah: Mr. Masake, you mentioned the king. Where does he live?

Mr. Emmanuel Masake: It is believed that the headquarters of all leaders in the world is Soroti in Uganda. That is where we have our Assembly; a parliament. We are divided into two; there is a council and the Cabinet.

Commissioner Farah: That is recognized in Uganda. How about in Kenya?

Mr. Emmanuel Masake: It is also recognized in Kenya. We have a hut at the Bomas of Kenya just like other Kenyans who have huts there. We perform cultural activities in those huts.

Commissioner Farah: Would you, therefore, attribute the relative peace of the Tesos to that structure which is lacking with the other groups of people?

Mr. Emmanuel Masake: That is very true. We have Teso Peace Initiative. It has been in Southern Sudan. We held peace discussions with Karamoja and Acholi several times. We have directly talked with Kony in Uganda and we have prevailed upon him to give peace a chance. We have told him that war does not pay. There was a time he had attacked Teso. We mobilized ourselves and fought his soldiers. So, we love and enjoy peace. Our culture dictates to us what kind of food to eat and what to grow in our farms. We like eating groundnuts. We like preserving our food in our granary. We like eating our food when it is black. That is our culture.

Commissioner Dinka: This morning and afternoon, we had three leaders from the three communities; the Sabaot, the Bukusu and the Teso. From my understanding, all the three have respective council of elders. Has there been any initiative to bring the three councils of elders together, or the representative of each together to discuss matters and address the people together? Do you think such an initiative would be fruitful?

Mr. Emmanuel Masake: That initiative would be very fruitful. In fact, there are certain things that have already happened between Tesos and the Sabaots. There was a group which was taken to Uganda through the Iteso Cultural Union. They toured Teso and Guru districts in Uganda. We wanted them to learn the impact of war on those people. We all know Tesos have suffered a lot as a result of war. They suffered during Idi Amin's regime. For over ten years, the forces of Museveni have clashed with Tesos. However, they reconciled and now they are living in peace under the current Government. Currently, we are organizing a joint meeting between the three councils of elders.

Commissioner Dinka: Thank you very much. I am happy to hear that.

The Presiding Chair (Commissioner Ojienda): Thank you very much for your testimony. You have given us a new perspective on the Emoromoro, the leader of the Iteso. Just share with us how we can use this institution of the Emoromoro to promote peace in the entire Teso nation. How will the Emoromoro also reach out to other communities?

Mr. Emmanuel Masake: In fact, we met the cultural leaders of the Bugisu in Uganda, Langi, Karamojong and Acholi. We work very closely with the Buganda Kingdom and Chabasiga of Busoga. A lot of those things are happening. We will be meeting very soon with elders from Mumias and the council of elders. I believe if we take this direction, we will bring people together and reduce tension among communities.

The Presiding Chair (Commissioner Ojienda): You have also alluded to the role that education plays in this region. You have said that if you have more people going to the university, the conflicts in this region will reduce. Why do you say so?

Mr. Emmanuel Masake: This is a universal thing and a right of every human being. Without education, we cannot develop this district. Mt. Elgon is one of the regions in Kenya with the highest potential for development. It can be the richest region in Bungoma County. However, many people are not educated. In fact, very few of us can talk authoritatively about our needs to the outside world. Education is so crucial to our people.

The Presiding Chair (Commissioner Ojienda): Thank you very much for your testimony. I hope this is not the last time we are meeting. We will work together towards ensuring that the objectives for which we are set, that is reconciliation of this country, will materialize.

Thank you very much. Leader of Evidence!

Mr. Patrick Njue: Thank you, Mr. Presiding Chair. With your indulgence, Mr. Masake want to present formally the memorandum from the Teso Community. Mr. Masake, look at the document right in front of us. Do you confirm this is the memorandum prepared by the Teso people and you wish to present it to this Commission, formally?

Mr. Emmanuel Masake: Yes, I confirm. I wish to formally present this memorandum of the Teso people to the TJRC.

The Presiding Chair (Commissioner Ojienda): It is so admitted. Let me confirm for purposes of record, Leader of Evidence, that we have also admitted the memorandum from the Sabaot, Teso and Bukusu communities.

Mr. Patrick Njue: Commissioners, our next witness is also an elder from the Teso, just to beef up on what Mr. Masake has talked on.

The Presiding Chair (Commissioner Ojienda): That witness should just make recommendations because we have the memorandum already.

(Mr. Bramwel Otwane took the oath)

Mr. Patrick Njue: Good afternoon?

Bramwel Otwane: Good afternoon.

Mr. Patrick Njue: Once again state your full names for the record.

Bramwel Otwane: My names are Otwane Julius Bramwel.

Mr. Patrick Njue: Mr. Otwane, where do you live?

Bramwel Otwane: I live in Cheptais.

Mr. Patrick Njue: We have heard Mr. Emanuel Masake from the Teso community which I believe is the same community you come from. He has taken us through an elaborate memorandum and highlighted the plight of the people of Teso. You are here because you had requested from the community that there are just a few things that you felt you wanted to mention to escort his testimony. Kindly, take us through that very briefly.

Bramwel Otwane: When we talk of Teso in Mt. Elgon, it stretches from Cheptais to Kaptama. I want to congratulate my colleagues, the Sabaots in Cheptais who has not given us more problems compared to Kaptama and Kapsokwany. During the 1992 clashes, most of our people lost their land and up to now, they have not been settled. Some are residing in Kimilili and others in other centres with no hope of going back. So, in this regard, I humbly request this Commission to inform the Government of that plight.

Two, the Iteso generally in Mt. Elgon are the most loving lot. But when it comes to employment, we are not thought of. This is particularly in local employment, for example, at the county council. I do not think there is any Teso employed at the county council. When it comes to bursaries for education, we are not considered. However, I have an appeal. I think the writing is clear on the wall. Let us not go back to where we were. I appeal to all the concerned communities; the Sabaot, to live more peacefully than before. We cannot do without one another. When it comes to development, these people seated here especially all residents of Mt. Elgon, most of them must have come without even taking a cup of tea. This is because of instability that we have experienced here. My appeal again, is that, for example, if the people those who went to Kapsiro in 1970s were settled and given title deeds, we would have avoided some of these things. I have heard there is that settlement going on. Let it be done transparently and remember there are more people who are not settled there.

Basically, Mt. Elgon residents are farmers. With the issuance of the title deeds, we are undergoing rehabilitation and we should also be lent a hand to improve on farming. The Sabaot Land Defence Force (SLDF) are our own sons and daughters and they are within us. As you know, an idle mind is an engine of instability. If possible, all are given guidance to go back to the farm and those who are young can go back to school. I think there will be a difference.

I would like to be as brief as that. Thank you for listening to me.

Mr. Patrick Njue: Thank you, Mr. Otwane, for that input. I will ask you a question before our commissioners can proceed to ask you more questions or clarify a thing or two from you

Now, you have talked about unemployment especially local employment, what factors have contributed to this?

Bramwel Otwane:: You know we were born and brought up here, however, when such chances appear, nobody thinks of us. We are like the forgotten lot because of our numerical weaknesses. When it comes to that, nobody thinks we matter. Even if one tried, you would easily be ignored.

Mr. Patrick Njue; Even through your local leaders and the Member of Parliament, for example?

Bramwel Otwane:: We have not gone that far. This is what has been happening. We have not grumbled a lot. As I told you, we are almost the voiceless. We talk less.

Mr. Patrick Njue: I also want to commend you for your call for peace among the people. Indeed, that is the message we should be preaching anytime we go out as leaders. Thank you for your testimony.

The Presiding Chair (Commissioner Ojienda): Thank you, leader of evidence. Commissioners, please, proceed!

Commissioner Chawatama: I also want to join the Leader of Evidence in commending you for loving peace. Loving peace is not a weakness but strength. To resist the shading of blood or destruction of property is strength. I pray that one day your people will be recognized and that there will be a lot of job opportunities. It is time for your reward.

The Presiding Chair (Commissioner Ojienda): Mr. Otwane, thank you for finding time to come to this Commission and to give your testimony and to detail the plight of the Tesos living in Cheptais and Kaptama. You have struck a blow for reconciliation by just mentioning that the Sabaot who live with you in Cheptais have been accommodative. We hope to see more of that amongst your people, the Sabaot and the Bukusu because you all belong to this mountain as you have said. I also join you in saying that there is need to find the root of the questions or the issues and to resolve them.

Leader of Evidence, because of the time and because of the nature of the evidence we shall listen to from the next witness, we propose that we adjourn to give that witness sufficient time tomorrow morning so that we start with his testimony. His testimony is so fundamental in this process that we cannot afford to hear it within the time that we have.

This will, therefore, mark the end of today's testimony.

(The Commission adjourned at 4.52 p.m.)